

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.07.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.21957 of 2017

and

W.M.P.Nos.23007 of 2017 and 2342 of 2018

C.Palaniyappan

..Petitioner

vs

The General Manager,
Tamil Nadu Tea Plantation Corporation Ltd.,
Tantea Complex,
Coonoor - 643 101.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records on the file of the respondent in Impugned order in SO.No.80/2017, dated 22.07.2017 and quash the same.

For Petitioner : Mr.K.V.Sajeev kumar

For Respondent : Mr.G.Anand

For M/s. T.S.Gopalan & Co

O R D E R

An order of transfer issued by the respondent on administrative grounds in proceedings dated 22.07.2017, is under challenge in this writ petition.

2. The writ petitioner is now working as Factory Supervisor and he was transferred from TANTEA Head Office, Coonoor, Nilgris to Pandiar Tea Factory, Coonoor, Nilgris. The petitioner is transferred from one Village to another Village within the same District. The said transfer order has been challenged merely on the ground that the writ petitioner is demoted from his original cadre of Supervisor and his salary is going to be reduced and further the transfer order is punitive in nature.

3. The writ petitioner is of an opinion that the order impugned has been issued in order to revert him to a lower post in a lower salary and to victimize him. However, all these grounds raised in this writ petition are clarified by the respondent by stating that the writ petitioner has not been

reverted to the lower post nor his salary reduced. Further, the disciplinary proceedings initiated against the writ petitioner is independent and unconnected with the administrative transfer issued against the writ petitioner, transferring him from one factory to another factory within the same District.

4. In this regard, the respondent has filed a counter affidavit stating that the writ petitioner is under an erroneous impression that he is being demoted and paragraph No.5 of the counter affidavit clarifies the apprehension arose in the mind of the writ petitioner and the same is extracted below:

'5. I state that the petitioner is under erroneous impression that he is being demoted. The petitioner was a Factory Supervisor who was made as a Tea marketing Assistant and posted to the packing Section in the Registered Office of the Respondent Corporation. By the order of transfer, the petitioner has merely been posted to Pandiar Tea Factory without any monetary loss or status where he was already working as a Factory Supervisor in the factory. It is incorrect to state that the order of transfer demotes the petitioner to a lower grade or category. With regard to the third contention of the petitioner that the order of transfer is punitive in nature, it is stated that the same is incorrect'.

5. Thus, it is made clear that the writ petitioner has not been reverted nor his salary has reduced. In respect of punitive transfer, this Court is of the opinion that the petitioner has not substantiated any acceptable ground and the initiation of disciplinary proceedings will not be a bar for the competent authorities to issue an order of administrative transfer. Administrative transfer cannot be correlated with the disciplinary proceedings initiated against him. Pendency of the disciplinary proceedings cannot be a way out for challenging the order of administrative transfer.

6. No writ proceedings can be entertained against the order of administrative transfer in a routine manner. The order of transfer can be interfered with only if the same has been issued by an incompetent authority having no jurisdiction or if a allegation of malafides are raised or the same is in violation of the statutory rules in force. Even in case of raising allegation of malafide, the authority against whom such an allegation is raised to be impleaded as a party respondent in the writ proceedings in his personal capacity. In the absence of any one of these grounds, no writ can be entertained and the public servant, wherever posted, is liable to work in the transferred place. The order of transfer is a condition of

service and therefore, the judicial review against the order of transfer is certainly limited and only on exceptional circumstances, the writ can be entertained.

7. In respect of apprehension raised in the present writ petition, it is clarified by the respondent that the writ petitioner has not been reverted nor his salary is reduced. He will be retained in the same cadre and in the same salary. There is no violation in any of the service conditions.

8. In this view of the matter, the writ petitioner has to join in the transferred place in the public interest and if at all any personal grievance exists for the writ petitioner, it is left open to the writ petitioner to approach the competent authority by way of representation. This Court cannot interfere with the day to day administration of the respondent, as the order of transfer or the transfer policy is an administrative prerogative of the competent authority. This being the legal principles to be followed, the writ petitioner has not established even a semblance of legal right so as to interfere with the order of transfer.

9. The writ petition is devoid of merits and stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

-s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

sk
To

The General Manager,
Tamil Nadu Tea Plantation Corporation Ltd.,
Tantea Complex,
Coonoor - 643 101.

+1 CC to Mr.K.V. Sanjeev Kumar, Advocate sr 49176.

+1 CC to Mr.T.S. Gopalan and Co, sr 49045.

W.P.No.21957 of 2017

SP(07/08/2018)