

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.08.2018  
Coram

The Hon'ble Mr.Justice Satrugana Pujahari

Writ Petition No. 21492 of 2018  
and  
W.M.P.Nos.25233 and 25234 of 2018

A.Mahendran

...Petitioner

Vs.

1. The Transport Commissioner,  
Chepauk, Chennai - 600 005.

2. The Regional Transport Officer,  
Regional Transport Office,  
Coimbatore (West),  
Coimbatore.

3. The Deputy Transport Commissioner,  
Erode.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records on the file of the first respondent in connection with the impugned order of transfer passed by him in his proceedings in Proc.No.782/RB2/2018 (E.O.No.343/2018) dated 09.08.2018 and quash the same as illegal and arbitrary and consequently direct the respondents to allow the petitioner to continue in the office of the second respondent.

For Petitioner : Mr.R.Jayaprakash

For Respondents: Mrs.Thanga Vadhana Balakrishnan  
Additional Government Pleader

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O R D E R

Heard, Mr.R.Jayaprakash, the learned counsel appearing for the petitioner and Mrs.Thanga Vadhana Balakrishnan, the learned Additional Government Pleader who accepts notice on behalf of the respondents. With consent of the learned counsel on either side, the Writ Petition is taken up for disposal.

2. The grievance of the petitioner in this Writ Petition is that though he is a native of Coimbatore and about to retire in

the month of January 2019, still he has been transferred from Coimbatore to Erode District. According to him, he has not even completed one year of service in the present station and therefore transferring him before the completion of period is against the Government Order in G.O.Ms.No.10, P & A.R. Department, dated 07.01.1994. The transfer order though passed based on administrative reasons but, he has made a representation on 14.08.2018 to the authority to give a re-look to the aforesaid order of the transfer. However, since the same has evoked no response, he has come to this Court challenging the same and with a prayer to quash the same.

3.The learned counsel for the petitioner would submit that the person having one year service to go, should not be disturbed is the guidelines. Admittedly, the petitioner has five months of service and therefore the impugned order of the respondent is illegal, arbitrary and unsustainable in the eye of law and hence liable to be quashed.

4.The learned Additional Government Pleader, however submits that there is no statutory rule indicating the aforesaid. Again the transfer of a person on the administrative grounds, cannot be questioned without any material indicating that the same is tainted with malafide more particularly, in the present case when the petitioner was involved in a corruption case and penalty has been imposed upon him. Therefore, this Writ Petition is devoid of merit and the same is liable to be dismissed.

5. It is not in dispute that the transfer is an incident of service therefore, the authority of the employer to transfer a person cannot be questioned unless the same is made being actuated with malafide. Here in this case, the petitioner has been transferred owing to his misconduct, on administrative ground. The petitioner could not brought any material on record indicating the same to have been made being actuated with malafide and any statutory rule that a person having one year of service cannot be transferred. Therefore, this writ petition filed challenging legality of such transfer on the ground stated is devoid of merits. However, it being not in dispute that the petitioner has five months to go, in service and he is a native of Coimbatore District, where he is presently working and it is stated that Government has prescribed a guideline not to transfer a person on the last year of his service and the petitioner has made a representation for that to give a relook his order of transfer, this Court dispose of the Writ Petition with an observation that the the appropriate respondent shall take a decision on the same, addressing the feasibility of posting the petitioner in some other non sensitive post in his native district, within two weeks from the date of receipt of a copy of this order. Till then, no coercive action shall be

taken against the petitioner for not joining in the new place of posting pursuant to the impugned order transfer.

6. With the aforesaid order this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

s/d-  
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

arr/mrm  
To

1. The Transport Commissioner,  
Chepauk, Chennai - 600 005.

2. The Regional Transport Officer,  
Regional Transport Office,  
Coimbatore (West),  
Coimbatore.

3. The Deputy Transport Commissioner,  
Erode.

+1 CC to Mr.R.Jayaprakash, Advocate sr 57996.

+1 CC to The Govt. Pleader sr 57873.

Writ Petition No. 21492 of 2018

SP(30/08/2018)

सत्यमेव जयते

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