

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12-06-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.23105 of 2017

And

W.M.P.No.24216 of 2017 and WMP No.7817 of 2018

Tmt.K.Raguna

... Petitioner

Versus

1.The Commissioner,
Adi Dravidar Wlefare Department,
Chepauk,
Chennai-600 005.

2.District Adi Dravidar and Tribal Welfare
Officer,
Adi Dravidar and Tribal Welfare Department,
Cuddalore.

... Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records pertaining to the impugned proceedings of the second respondent vide Na.Ka.W10/7918/2017 dated 18.8.2017, thereby cancelling earlier transfers, which were already given effect to and quash the same.

For Petitioner : Mr.N.Ramesh

For Respondents : Mrs.A.Sri Jayanthi,
Special Government Pleader.

ORDER

The cancellation of the transfer order issued by the second respondent in proceedings dated 18.8.2017 is under challenge in this writ petition.

2. The writ petitioner is serving as a Cook in Government (ADW) Girls Student Hostel, Dharmanallur for the last six years from the date of her joining in Government Service in the year 2011, she made a request to transfer her to Panruti. Her request application was considered and accordingly, the writ petitioner

had been transferred from Dharmanallur to Panruti. which is her native Taluk. Pursuant to the order of transfer, the writ petitioner was relieved from the post of Cook at Dharmanallur on 3.8.2017, enabling her to join duty at Panruti. Accordingly, she joined there on 4.8.2017. Subsequently, the second respondent issued an order of cancellation, cancelling the transfer order issued in favour of the writ petitioner on her own request. Challenging the same, the present writ petition has been filed.

3. The learned counsel, appearing on behalf of the writ petitioner, states that the writ petitioner is working in Last Grade Service with meagre salary and therefore, cancellation of transfer will affect her normal family life. The writ petitioner has to transfer from Dharmanallur to Panruti to meet her family members. Therefore, the cancellation order is liable to be scrapped.

4. The learned Special Government Pleader, appearing on behalf of the respondents, states that no doubt an order of transfer was issued in favour of the writ petitioner on her own request, transferring her from Dharmanallur to Panruti. However, ten other employees, against whom such transfer orders were issued, had approached the District Collector, Cuddalore stating that such a transfer will affect their family life. The District Collector, Cuddalore, who received the applications on the Grievance Day, forwarded the same to the Director of Adi Dravidar and Tribal Welfare Department, Chennai. The Director of Adi Dravidar and Tribal Welfare Department, Chennai, considered the representations and finally directed the second respondent in letter dated 18.8.2017, cancelling the transfer orders issued on 28.7.2017 in respect of all the employees working in the cadre of Cooks and their last grade service. The second respondent had obeyed the orders issued by the Director of Adi Dravidar and Tribal Welfare Department, who is the Head of the Department. Thus, there is no motive or mala fide intention on the part of the second respondent for cancelling the transfer order issued at the request of the writ petitioner.

5. This Court is of an opinion that the cancellation order was issued based on the orders issued by the Director of Adi Dravidar and Tribal Welfare Department, Chennai, who is the Head of the Department. Thus, the allegations raised against the second respondent is certainly untenable. This apart, the grievance applications submitted by the District Collector, Cuddalore, were forwarded to the Head of the Department for further action. Though the writ petitioner had been transferred on her own request, the transfer orders issued to all other ten persons caused inconvenience. The issues were considered by the Head of the Department and all transfer orders were cancelled, such an action cannot be construed as a motivated one.

6. Transfer is an incidental to service, more-so a condition of service. A public servant, wherever posted, is liable to work. Place or post can never be claimed as a matter of choice by the Government employees. The transfer orders are issued on administrative grounds and for efficient administration. The Constitutional Courts cannot interfere with the day-to-day administration of the State or the Union of India. It is the administrative prerogative of the competent authorities to issue posting orders at their own discretion for the purpose of running the public administration efficiently. If the Court interferes in such administrative orders, then it will not only create chaos and it will hamper the peaceful functioning of the public administration.

7. No writ can be entertained against an order of transfer, so also the cancellation of transfer orders. If the same has been issued by an authority having no jurisdiction or an allegation of mala fides are raised or if the same is in violation of statutory rules in force. Even in case of raising an allegation of mala fides, the authority against whom such an allegation is raised to be impleaded as party respondent in the writ proceedings in his personal capacity. In the absence of any one of the legal grounds, no writ can be entertained against the transfer orders or cancellation of transfer orders, which are all administrative in nature.

8. In the present case on hand, the writ petitioner had been transferred from Dharmanallur to Panruti on her own request. When the other employees made a representation to the District Collector, Cuddalore, which were forwarded to the Director of Adi Dravidar and Tribal Welfare Department, which is the Head of the Department, to maintain the peace and tranquility amongst the employees, cancelled all the transfer orders and allowed them to work in the same Stations. Such action cannot be considered as illegal or contrary to the legal principles. Transfers are incidental and it is no doubt that the Courts cannot interfere with the transfers or cancellation of transfer orders. In the event of substantiating the allegations with sufficient materials, then alone the Courts can interfere with such administrative transfer orders or cancellation of transfer orders. This being the legal principles to be followed, this Court is of an opinion that the writ petitioner has not made out any acceptable grounds for the purpose of considering the relief as such sought for in this writ petition.

9. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Svn
To

- 1.The Commissioner,
Adi Dravidar Wlefare Department,
Chepauk,
Chennai-600 005.
- 2.District Adi Dravidar and Tribal Welfare
Officer,
Adi Dravidar and Tribal Welfare Department,
Cuddalore.

+1 cc to Mr.N.Ramesh Advocate sr 36777

W.P.No.23105 of 2017

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