

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.07.2018

CORAM

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P. No.20305 of 2013

and

MP No.1 of 2013

P. Krishnan Petitioner

versus

1. The District Collector,
Dharmapuri District,
Dharmapuri.

2. R. Ramajeyam Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue writ of Certiorari to call for the records relating to the impugned order passed by the 1st respondent in Na.Ka. No.22347/2012/K3, dated 28.06.2013 and quash the same.

For Petitioner : Mr.G. Sankaran

For Respondents : Mrs.A.Srijeyanthi

Spl. Government Pleader for R1

No appearance for R2

सत्यमेव जयते
O R D E R

The order of transfer issued by the first respondent in proceedings dated 28.06.2013 is impugned in the present writ Petition.

2. The writ petitioner was appointed as Attendant in the Health Department in the year 1998 and further promoted to the post of Driver on 21.11.1998. The petitioner was subsequently absorbed into the Rural Development department in the year 1999 and posted in Dharmapuri District. The petitioner was issued with an order of transfer on 10.09.2012 transferring him from Dharmapuri to Penagram Panchayat Union office. He joined in the transferred place at Penagram Block Development Office and

was working. However, another transfer order has been issued by the first respondent in proceedings, dated 28.06.2013 transferring the writ petitioner from Penagram to Morappur, which is 60 kilometres away from Penagram. The grievances of the writ petitioner is that he has hardly served about 9 months in Penagram and even before completion of 3 years of tenure, he was again subjected to transfer through the impugned order.

3. May that it be. This Court is of the opinion that the impugned order has been passed on 28.06.2013. Pursuant to the interim stay granted by this Court at the time of the admission of the present writ petition, the writ petitioner continued in the same post at Penagram. Now five years had lapsed and the normal period of tenure in a post in Government Service is three years, as per the Government transfer Policy. This apart, the writ petitioner has been transferred from Penagram to Morappur on administrative grounds. There is no time limit in respect of the transfer on administrative grounds.

4. Transfer is an incidental to service. More so, a condition of service. No writ can be entertained against an order of transfer in a routine manner. A Writ against an order of transfer may be entertained only if the order has been issued by an incompetent authority having no jurisdiction or an allegation of malafides are raised or if the same is in violation of the statutory rules in force. Even in case of raising an allegation of malafides, the authority against whom such allegation is raised has to be impleaded as party respondent in his personal capacity in the writ proceedings. In the absence of any one of these legal grounds, no writ proceedings can be entertained against an order of transfer and the judicial review against the order of transfer is certainly limited.

5. The Constitutional courts cannot interfere with the day to day administration of the State and its Department. It is the prerogative of the administrative authorities to see that the Government employees are properly posted in accordance with the rules and the public services are provided without any lacuna. Public interest is of paramount importance and posting of a Government servant in a particular post and place is an administrative prerogative of the competent authorities. Only in the event of establishing any malafides, or other legal grounds cited supra, no writ can be entertained against an order of transfer.

6. In the present case, except the fact that the writ petitioner was transferred within 9 months there is no other allegation, however, the writ petitioner has already continued

in the present place at Penagram for five years and it is left open to the respondents to reconsider the order of transfer and issue appropriate orders, if necessary in the interest of public administration.

7. With these observations, the writ petition stands dismissed. Consequently, connected miscellaneous petitions is closed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

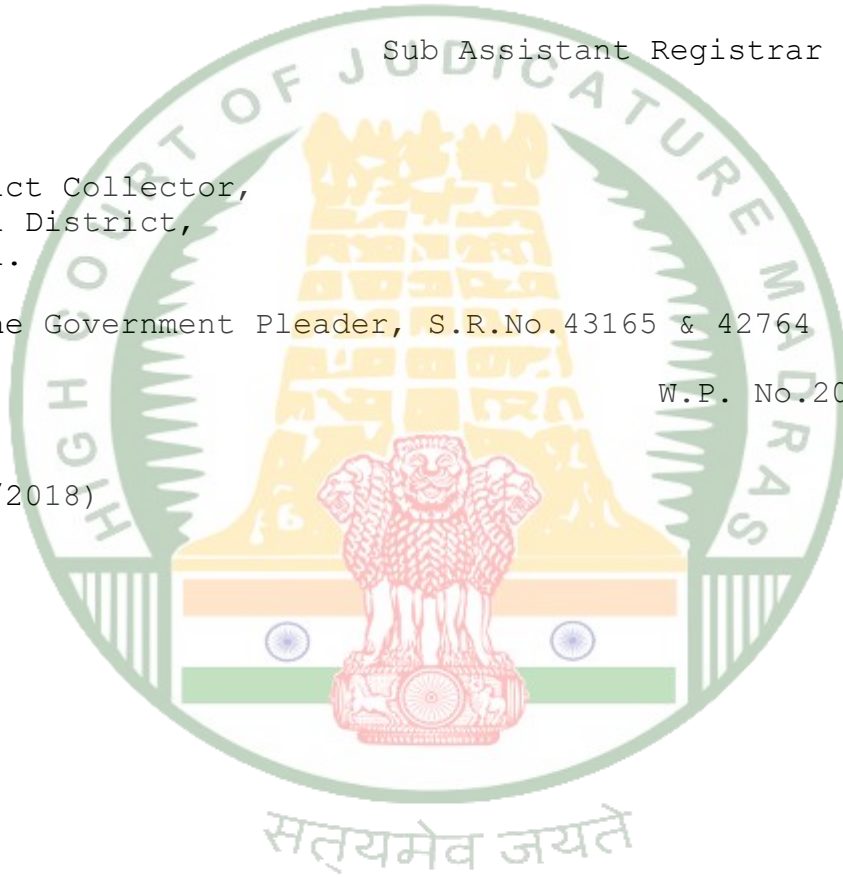
To

The District Collector,
Dharmapuri District,
Dharmapuri.

+1cc to the Government Pleader, S.R.No.43165 & 42764

W.P. No.20305 of 2013

SSV(CO)
GSP(25/07/2018)



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