

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.07.2018

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

W.P.No.15643 of 2013
and
M.P.Nos.1 & 2 of 2013

D.Kathiresan

...Petitioner

vs

1.The Managing Director,
The Tamilnadu Handloom Weavers'
Cooperative Society Ltd.,
Co-Optex, "Balasundaram Buildings"
No.350, Pantheon Road, Egmore,
Chennai - 600 008.

2.The General Manager (Administration)
The Tamilnadu Handloom Weavers'
Cooperative Society Ltd.,
Co-Optex, "Balasundaram Buildings"
No.350, Pantheon Road, Egmore,
Chennai - 600 008.

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent vide Proceedings in Rc.No.102/A4/2012 dated 29.11.2012 and quash the same and further direct the respondents to post the petitioner as a Driver.

For Petitioner :Mr.R.Ganesh Kumar

For Respondents :Mr.K.Rangesh
For M/s.Jayaraman and Associates

O R D E R

The order of temporary transfer issued by the 2nd respondent in proceedings dated 29.11.2012 is under challenge in this writ petition.

2.The writ petitioner is employed as a Driver in the respondent Cooperative Society. The grievances of the writ

petitioner is that he was appointed as a Driver on 30.01.1997 and the impugned order states that the writ petitioner was temporarily transferred and posted to work in the showroom under the control of Regional Manager, Regional Office, Tirunelveli. The petitioner states that he cannot be directed to work in the showroom under the control of Regional Manager, Regional Office, Tirunelveli in view of the fact that he was appointed as a Driver.

3.The learned counsel appearing on behalf of the respondents states that on account of certain administrative exigency, the writ petitioner was temporarily transferred and posted to work in the showroom under the control of Regional Manager, Regional Office, Tirunelveli. He was asked to perform certain duties on administrative grounds and in the interest of the organization. Further, the transfer order issued, was a temporary one for a period of one year. However, by virtue of an interim order granted by this Court, the writ petitioner continued in Chennai for the past five years and he had joined in the transferred place and thereafter came to Chennai and now, the writ petitioner is serving as a Driver in Chennai. In view of the fact that it is a temporary transfer issued on administrative grounds and again, the transfer was for a period of one year and now, the writ petitioner is working in Chennai for more than five years pursuant to the interim orders granted, there is no reason to consider the writ petition any further.

4.This Court is of an opinion that transfer is incidental to service, more so, a condition of service. A public servant on transfer, has to work in the post or place in which he was transferred in the interest of public and in the interest of administration. No writ against an order of transfer can be entertained in a routine manner. Judicial review against an order of transfer is limited and a writ proceedings can be entertained, if an order of transfer has been issued by an incompetent authority having no jurisdiction or an allegation of mala fides are raised or if the same is in violation of the statutory rules in force. Even in case of raising an allegation of mala fides, the authority against whom such an allegation is to be raised, to be impleaded as a party respondent in the writ proceedings in his personal capacity. In the absence of any one of these legal grounds, no writ can be entertained against an order of transfer.

5.In the present writ petition, undoubtedly, the writ petitioner was appointed as a Driver and he was transferred temporarily to work under the under the control of Regional Manager, Regional Office on administrative exigencies. Thus, there is no infirmity in respect of the temporary transfer issued to the writ petitioner. However, the writ petitioner

continued at Chennai pursuant to the interim order granted by this Court.

6.Thus, no further adjudication needs to be entertained in respect of the grievances set out in the present writ petition. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Managing Director,
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