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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.07.2018

Coram

The Hon'ble Mr. Justice Satrugana Pujahari

Writ Petition No.18599 of 2018

and

W.M.P.No.21940 of 2018

R. Balamurugan

...Petitioner

Vs.

1. The Director,
Employment and Training Department,
Guindy, Chennai - 600 032.
2. The Joint Director,
(Craftsman Training Scheme),
Employment and Training Department,
Guindy, Chennai - 600 032.
3. The Deputy Director/Principal
Government Industrial Training Institute,
Cuddalore, Cuddalore District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records relating to the second respondent in proceedings order No.16153/ITI 1/2018 dated 18.05.2018 and to quash the same and consequently, to direct the respondents to retain the petitioner in the same place at Government Industrial Training Institute, Cuddalore. with all benefits

For Petitioner : Mr.R.S.Anandan

For Respondents : Mr.V.Kadhirvelu
Special Government Pleader

O R D E R

Heard Mr.R.S.Anandan, the learned counsel appearing for the petitioner and Mr.V.Kadhirvelu, the learned Special 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. This Writ Petition has been filed by the petitioner, challenging his order of transfer from Cuddalore to Tirunelveli, on the ground that the same is mala fide and also contrary to the transfer policy of the Government.

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3. The learned counsel appearing for the petitioner would submit that, as per the proceedings passed by the second respondent, dated 29.05.2017, the petitioner joined in the service of the third respondent/Institute on 16.06.2017 and even before completion of one year of service, the impugned transfer order has been passed, which itself prima facie establishes the fact that there would be certain other reasons and the reasons assigned in the impugned order that it is for administrative ground is not genuine. It is his further submission that the petitioner has an old mother to be looked after, as she is suffering from age-related ailments; mentally retarded young sister, and widowed elder sister and added to that, his daughter is studying SSLC and to impart good education, obviously his guidance is indispensably required, and at this juncture, if he is directed to be transferred to Tirunelveli, it will cause undue hardship to him. Setting out all these aspects, the petitioner has made a representation to the first respondent, dated 23.05.2018, to re-consider his order of transfer. In such premises, the learned counsel prays that a direction be issued to the respondents to consider the representation of the petitioner.

4. The learned Special Government Pleader appearing for the respondents would submit that the order of transfer was purely on administrative grounds and there is ground to interfere with the said order.

5. It is a well settled law that transfer is not only an incident of service but, when the same passed on administrative ground due to exigencies of service, the Court cannot interfere with the same, unless, the Court finds that such an order is passed with a mala fide intention or in violation of any Rules of services and guidelines for transfer. Be that as it may, considering the fact that the petitioner comes out with a case that the transfer order is passed contrary to the Transfer Policy of the Government, which contemplates that the government servant is entitled to continue in the same Station for a period of three years, and in the instant case, the petitioner has not even completed one year of service, in this regard, he has also made a representation to re-consider his transfer, this Court instead of issuing notice, in this Writ Petition, proceeds to dispose of the same with a direction to the first respondent to consider such representation of the petitioner, dated 23.05.2018, in the light of the Transfer Policy of the Government, if any, in this regard and pass necessary orders within 15 days henceforth. Till an informed and considered



decision is taken on such representation, no coercive action shall be taken against the petitioner for non-joining in the new place of posting. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

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-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

1. The Director,
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Guindy, Chennai - 600 032.
2. The Joint Director,
(Craftsman Training Scheme),
Employment and Training Department,
Guindy, Chennai - 600 032.
3. The Deputy Director/Principal
Government Industrial Training Institute,
Cuddalore, Cuddalore District.

+1cc to Mr.R.S.Anandan,Advocate,Sr.48750

Writ Petition No.18599 of 2018

SSI (CO)
GSP(24/07/2018)