

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2018

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice KRISHNAN RAMASAMY

W.P.Nos.25528, 25540 and 25548 of 2018
and
W.M.P.Nos.29694, 29696, 29707, 29710, 29713 and 29715 of 2018

Union of India rep. by its
Additional Commissioner & Regional
Director,
Employees State Insurance
Corporation (ESIC),
Regional Office,
143, Sterling Road, Chennai - 34. .. Petitioner in
all the W.Ps

Vs

J.Kalpana .. Respondent in
W.P.No.25528 of 2018

V.Sasi .. Respondent in
W.P.No.25540 of 2018

M.Punitha Jeyaseeli .. Respondent in
W.P.No.25548 of 2018

Petitions filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the entire records pertaining to the interim order dated 17.08.2018 passed in O.A.Nos.310/01108/2018, 310/01107/2018 and 310/01109/2018 and the consequential orders dated 12.09.2018 passed in M.A.Nos.310/00520/2018, 310/00519/2018 and 310/00521/2018 in O.A.Nos.310/01108/2018, 310/01107/2018 and 310/01109/2018 by the Central Administrative Tribunal at Chennai and quash the same.

For Petitioner .. Mr.G.Rajagopalan,
Addl. Solicitor General
assisted by
Mr.K.Prabakar in all the W.Ps

For Respondent .. Mr.R.Malaichamy
in all the W.Ps

COMMON ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

Though these writ petitions have been filed against the interim order granted by the Tribunal, by consent, we deem it appropriate to dispose of the main cases themselves.

2.In all these cases, the respondents are working as Nursing Sisters. The respondents challenged the transfer orders transferring them from Chennai to Tirunelveli. It appears that these orders have been challenged on the primary ground that during the academic year, any transfer would cause huge inconvenience, especially the respondents being ladies having minor children.

3.Considering the above, we asked the learned Additional Solicitor General to find out as to whether the respondents can be accommodated at least till the end of academic year. The learned Additional Solicitor General, on instructions, would submit that only two vacancies are available and therefore, without prejudice to the contentions on merits, two of the respondents in all the three writ petitions can be accommodated till the academic year - on or before 30.04.2019 and the third one cannot be accommodated.

4.Learned counsel appearing for the respondents would submit that even insofar as the third person viz., V.Sasi, the representation itself would show that she is having two kids, one male and one female aged about ten and four years respectively. They are studying in 6th and 4th standards respectively. It would be impossible to get admission at Tirunelveli.

5.Considering the above, we deem it appropriate to dispose of all the writ petitions by directing the petitioner not to disturb the respondents till the end of April, 2019 so that the academic year would get over. This order is passed by taking into consideration the plight of the children of the respondents

in all the three cases. We are quite conscious of the fact that an order of transfer, being incidental to service, cannot be challenged by subjecting it to judicial review except on the ground of jurisdiction and malafides, both of which are not available.

6. Accordingly, we dispose of these writ petitions by directing the petitioner not to disturb the respondents in all the three writ petitions till the end of April, 2019. We also make it clear that from 01.05.2019 onwards, the respondents will have to work at Tirunelveli. In view of the same, the Original Applications pending before the Central Administrative Tribunal, Chennai also stand disposed of. The submission of the learned counsel appearing for the respondents that the respondents would join in the transferred place on or before 01.05.2019 stands recorded. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

mmi

To

The Central Administrative Tribunal,
Madras Bench at Chennai.

+3cc to Mr.K.Prabakar, Advocate sr.no.79016 to 79018
+3cc to Mr.R.Malaichamy, Advocate sr.no.78938

सत्यमेव जयते
W.P.Nos.25528, 25540
and 25548 of 2018

nr 30/11/2018

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