



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.04.2018

CORAM:

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.7565 of 2018

and

W.M.P.(MD) Nos.7212 & 7213 of 2018

Rajeswari

...Petitioner

Vs.

1) The District Collector,
Collectorate Campus,
Virudhunagar District, Virudhunagar

2) The Revenue Divisional Officer,
Venkitachalapuram, Sattur,
Virudhunagar District, Virudhunagar.

3) The Tahsildar,
Taluk Office, Sattur, Virudhunagar District.

4) The Tahsildar,
Taluk Office,
Vembakottai Taluk,
Virudhunagar District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 4th respondent in Na.Ka.No.2/1308/18 dated 21.03.2018 and quash the same and consequently direct the respondents to issue posting order to the petitioner to join as Village Assistant .

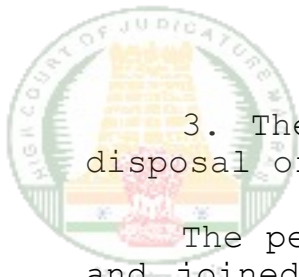
For Petitioner : Mr.R.Thangapandian

For Respondents : Mrs.S.Srimathy,
Special Government Pleader.

O R D E R

The prayer sought for in this Writ Petition is to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 4th respondent in Na.Ka.No.2/1308/18 dated 21.03.2018 and quash the same and consequently for a direction to the respondents to issue posting order to the petitioner to join as a Village Assistant .

2. Heard Mr.R.Thangapandian, learned counsel for the petitioner and Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents.



3. The short facts, which are required to be noticed for the disposal of the Writ Petition, are as follows:

The petitioner was appointed as Village Assistant on 24.02.2011 and joined duty on 01.03.2011. From the said date of appointment, the petitioner has been continuously working in various places, as she has been transferred four or five times, on administrative grounds. While that being the position, by the impugned order dated 21.03.2018, the fourth respondent has relieved the petitioner permanently from the post of Village Assistant. Challenging the same, the present Writ Petition has been filed.

4. I have heard Mr.R.Thangapandian, learned counsel for the petitioner, who would submit that, the reasons adduced in the impugned order will not stand in the legal scrutiny as the petitioner cannot be relieved without conducting any enquiry and therefore on that ground, this impugned order is liable to be interfered with.

5. Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents, having relied upon the averments made in the counter affidavit filed by the fourth respondent, would submit that, the petitioner had been subjected to transfer four or five times on administrative grounds. In one occasion, a complaint has been received from the Sub Inspector of Police, Sattur Police Station in his letter dated 15.11.2017 addressed to the fourth respondent that, there has been a criminal case registered against the petitioner in Crime No.663 of 2017 punishable under Sections 294(b) and 323 I.P.C., at Sattur Town Police Station and also there had been a counter case in Crime No.662 of 2017 filed against some individuals who were working along with the petitioner.

6. When that being the position, the learned Special Government Pleader appearing for the respondents by relying upon the averments made in the counter affidavit has submitted that, the fourth respondent has sent a report to the second respondent on 06.02.2018 that, the petitioner can be transferred to some other place, as she has created some issues and by stating that, she can be transferred to Sattur Taluk or otherwise, she will create scene even in front of the Revenue Divisional Officer and in order to avoid those unpleasantness, instead of transferring the petitioner, due to administrative reasons, the petitioner was relieved from the post of Village Assistant from 21.03.2018 After Noon, through the impugned order.

7. I have considered the submissions made by the counsel on either sides and also have gone through the impugned order as well as the counter affidavit filed by the fourth respondent.

8. In the counter affidavit in paragraph 8, the following averment has been made:-



".....Being Destitute Widow, she is taking too much of advantage in executing her official duties. The fourth respondent in his L.Dis.B2/469/2018 dated 06.02.2018, has sent report to the second respondent recommending to transfer the petitioner to Sattur Taluk. Due to administrative reason, the petitioner was relieved from the post of Village Assistant, O.Muthusampuram Village, on the A.N. of 21.03.2018.

9. When the very same fourth respondent has already recommended for transfer of the petitioner, being a destitute women, the very same respondent now has passed the impugned order dated 21.03.2018, by which the petitioner, once for all is being relieved from duty.

10. On perusal of the impugned order dated 21.03.2018, this Court is of the view that the petitioner, whatever be the reason or compliant, should not have been shown the way, as has been shown in the impugned order. If at all, the petitioner, against whom, the other individuals have preferred complaint, any complaints received and if any misconduct is noticed on her part, it is open to the Disciplinary Authority to initiate disciplinary proceedings against the petitioner. Otherwise, on administrative grounds, transfer can be made to the petitioner, but that shall not be made by way of malafide or punitive transfer. Instead of adopting any of such measures contemplated under the Service Jurisprudence, strangely, the fourth respondent has passed the impugned order by permanently relieving the petitioner from her duty, which is not only unjust, arbitrary, but also against the provisions of service law and therefore, this Court has no hesitation to hold that, the impugned order is unjustifiable and unsustainable. Accordingly, the impugned order is liable to be quashed and therefore, it is quashed.

11. In the result, the Writ Petition is Allowed. However, it is open to the respondents to place the petitioner in any other place on transfer, without prejudice to any disciplinary action, if the respondents wanted to initiate action against her. The needful shall be done by giving posting orders to the petitioner at the available vacancy within a period of two weeks from the date of receipt of a copy of this order. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

1) The District Collector,
Collectorate Campus,
Virudhunagar District,
Virudhunagar



2) The Revenue Divisional Officer,
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3) The Tahsildar,
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4) The Tahsildar,
Taluk Office,
Vembakottai Taluk,
Virudhunagar District.

+1CC to Mr.R.Thangapandian Advocate in SR.No.63519,
+1CC to Special Government Pleader in SR.No.64091.

STS

DS/JC/SAR-4 :07.06.2018: 4P/7C

Order in
W.P. (MD) No.7565 of 2018
25.04.2018