



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.04.2018

CORAM:

WEB COPY

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.8498 of 2018

and

W.M.P.(MD) Nos.8003 & 8004 of 2018

V.Balachandran

...Petitioner

Vs.

- 1) The Principal Secretary to the Government,
Department of Panchayatraj,
St.George Fort,
Chennai.
- 2) The Director / Commissioner,
Municipal Administration,
Chennai.
- 3) The Commissioner,
Sankarankovil Municipality,
Sankarankovil,
Tirunelveli District.
- 4) The Commissioner,
Melur Municipality,
Melur,
Madurai District.
- 5) Mr.S.Murugesan,
Sanitary Inspector,
Melur Municipality, Melur,
Madurai District.

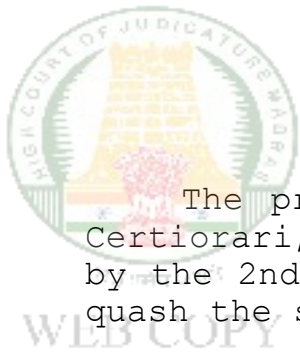
... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records in respect of order passed by the 2nd respondent in R.O.C.No.9286/J1/2018 dated 10.04.2018 and quash the same as illegal.

For Petitioner : Mr.S.Chellapandian

For RR 1, 2 & 4 : Mrs.S.Srimathy,
Addl., Government Pleader.

For R3 : Mr.P.Mahendran,
Standing Counsel for
Sankarankovil Municipality.

O R D E R

The prayer sought for in this writ petition is for a Writ of Certiorari, to call for the records in respect of the order passed by the 2nd respondent in R.O.C.No.9286/J1/2018 dated 10.04.2018 and quash the same.

2. I have heard Mr.S.Chellapandian, learned counsel for the petitioner, Mrs.S.Srimathy, learned Additional Government Pleader appearing on behalf of the respondents 1, 2 and 4 and Mr.P.Mahendran, learned standing counsel appearing for the third respondent.

3. In view of the decision going to be taken in this writ petition, notice to the fifth respondent is dispensed with.

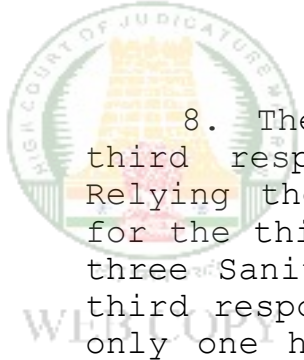
4. The very short facts which are required to be noticed for the disposal of the writ petition are as follows:-

The petitioner has been working as a Sanitary Officer at the third respondent Municipality. Before he comes to the said Municipality, the petitioner was working at the Tenkasi Municipality as a Sanitary Officer and from Tenkasi Municipality, the petitioner was transferred to Sankarankovil Municipality, by order of the second respondent dated 08.05.2017, pursuant to which, he joined there and had been working. Within a span of few months, the present impugned order of transfer dated 10.04.2018 was issued by the second respondent, by which, the petitioner has been transferred from Sankarankovil Municipality to Melur Municipality and in turn, under the very same impugned order, the fifth respondent has been transferred to Sankarankovil Municipality.

5. Challenging the said impugned order dated 10.04.2018, the petitioner has moved this writ petition with the aforesaid prayer.

6. The learned counsel for the petitioner would submit that, the petitioner had been subjected to transfer only on 08.05.2017, and only under which, the petitioner has been placed at Sankarankovil Municipality, where he is working. Within few months, now the present transfer order has been made, whereby, the petitioner has been again transferred from Sankarankovil to Melur Municipality (i.e.,) the fourth respondent Municipality.

7. The learned counsel would further state that, even though the fifth respondent had been, in turn, transferred under the same impugned order to Sankarankovil Municipality, he is not willing to be transferred to Sankarankovil Municipality and in fact, he wants to retain at Melur Municipality and in this regard, the fifth respondent seems to have given a representation to the second respondent on 12.04.2018, requesting the second respondent to retain him at Melur Municipality.



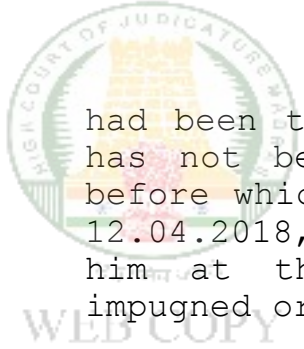
8. The learned standing counsel appearing on behalf of the third respondent Municipality, filed the typed set of papers. Relying the documents filed therein, the learned standing counsel for the third respondent submits that totally four employees (i.e.,) three Sanitary Inspectors and one Sanitary Officer working at the third respondent Municipality were transferred and out of the four, only one has been relieved from the third respondent Municipality and he had joined in the transferred place. Insofar as the other three employees, including the petitioner are concerned, they have not been relieved and among the three employees, the petitioner has approached this Court with the present Writ Petition.

9. The learned standing counsel for the third respondent would also submit that on 20.04.2018, the fifth respondent came to the third respondent Municipality and made a request that he may be permitted to join duty at the third respondent Municipality. However, in the meanwhile, order of status quo was granted by this Court and he was not permitted and he immediately applied for leave and he seems to have given the said request to the second respondent on 12.04.2018, expressing his desire to be retained at the fourth respondent Municipality, by cancelling the transfer order passed against him to transfer him from the fourth respondent Municipality to the third respondent Municipality.

10. Per contra, the learned Special Government Pleader appearing for respondents 1, 2 and 4 would submit that, the impugned order of transfer was passed on administrative grounds. Accordingly, both the writ petitioner and the fifth respondent had been transferred, like mutual transfer, as the petitioner was transferred from the third respondent Municipality to the fourth respondent Municipality and the fifth respondent was transferred from the fourth respondent Municipality to the third respondent Municipality.

11. It may be true that, subsequent to the impugned order, the fifth respondent has requested the second respondent expressing his desire to be retained at the fourth respondent Municipality itself, like that, the writ petitioner also, since he was posted at the third respondent Municipality, only in the month May 2017, he has approached this Court, seeking indulgence of this Court to cancel the order impugned herein. However, since the transfers have been made on administrative grounds, on the request of the individual employees, the same cannot be reconsidered or reviewed.

12. I have considered the rival submissions made by both side. It is a fact that, the petitioner was posted to the present place, where he is working now, before passing the impugned order, by way of an earlier transfer order dated 8.05.2017. Therefore, within one year or less than one year, the present impugned order dated 10.04.2018 was passed, transferring the petitioner from the third respondent Municipality to the fourth respondent Municipality. <https://hcservices.ecourts.gov.in/hcservices/> though administrative reasons have been stated in the said transfer order, in the place of the petitioner, the fifth respondent, though



had been transferred, it seems that, he had applied for leave and has not been there, except giving one letter on 20.04.2018, and before which, he already made a request to the second respondent on 12.04.2018, seeking indulgence of the second respondent to retain him at the fourth respondent Municipality, by cancelling the impugned order of transfer, insofar as, his transfer is concerned.

13. Therefore, both the writ petitioner as well as the fifth respondent want to be retained in the place, where they are working and there is no request for any mutual transfer between them and there is no other reason mentioned in the impugned order of transfer.

14. Though, this Court will be very slow in interfering with the transfer order issued on administrative reasons, unless an acceptable reason is given, even on administrative grounds, it cannot be construed that, for the purpose of administrative exigencies, such transfer orders are passed.

15. Here, in the case in hand, both the petitioner and the fifth respondent, who have been subjected to transfer, like mutual transfer by the impugned order dated 10.04.2018, since both of them expressed their desire to be retained in the original places and also in respect of the petitioner, since has been in transferred place, where he is working only from May 2017, this Court feels that there is some force in the contentions made by the learned counsel for the petitioner and therefore, in order to give a quietus to the issue raised in the writ petition, without prejudice to anybody's right, this Court is inclined to pass the following order by way of disposing this writ petition;-

" that the impugned order dated 10.04.2018 shall be withdrawn by the second respondent and the petitioner as well as the fifth respondent shall be considered to be retained in their original places, in view of the plea raised by the petitioner in this writ petition and the request made by the fifth respondent by his representation dated 12.04.2018 and accordingly, the impugned order need not be given effect to either by the second respondent or by any other official respondents herein. Since the third respondent Municipality, through the learned standing counsel, has stated that, the petitioner has not so far been relieved from the third respondent Municipality and an order of status quo has already been granted by this Court, there can be no impediment as of now for the petitioner to continue at the third respondent Municipality. In view of the said arrangement, the fifth respondent can also be permitted to continue at the fourth respondent Municipality."

15. It is made clear that, this order shall not in any way be construed that these two incumbents (i.e.,) petitioner and the fifth respondent shall not be subjected to any other action. If any



compliant is made against them and if the same is considered, which requires any disciplinary action, that can also be initiated by the appropriate authorities and in that regard, this order will not stand in the said process.

16. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1) The Principal Secretary to the Government,
Department of Panchayatraj,
St.George Fort,
Chennai.

2) The Director / Commissioner,
Municipal Administration,
Chennai.

3) The Commissioner,
Sankarankovil Municipality,
Sankarankovil,
Tirunelveli District.

4) The Commissioner,
Melur Municipality,
Melur,
Madurai District.

5) Mr.S.Murugesan,
Sanitary Inspector,
Melur Municipality, Melur,
Madurai District.

+1CC to Mr.S.Chellapandian, Advocate, SR.No. 63663

+1CC to Mr.P.Mahendran, Advocate, SR.No. 63265

+1CC to the Special Government Pleader SR.No.63287

Order in
W.P. (MD) No.8498 of 2018
24.04.2018

sts

<https://hcservices.ecourts.gov.in/hcservices/>

AM/SV/MIS/SAR 1/27.04.2018/5P/9C