



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)Nos.9827 and 13691 of 2018

and

W.M.P.(MD)Nos.11205, 9033, 9034, 12428 and 12429 of 2018

W.P. (MD)No.9827 of 2018

R.Kanagaraj

... Petitioner

-Vs-

The State rep. by,

1.The Director,

Adi Dravidar and Tribal Welfare Department,
Ezhilagam, Chennai.

2.The Adi Dravidar and Tribal Welfare Department Officer,
Office of the Adi Dravidar and Tribal Welfare Officer,
Virudhunagar District,
Virudhunagar.

... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the second respondent's impugned order in Na.Ka.No.T5/7085/2018, dated 09.04.2018 and quash the same and further direct the second respondent to allow the petitioner to continue his work as a Jeep driver in Adi Dravidar and Tribal Welfare Department, Virudhunagar.

For Petitioner : Mr.S.Karthick Subramanian

For Respondents : Mrs.S.Srimathy
Special Government Pleader

W.P. (MD)No.13691 of 2018

K.Krishna Moorthy

... Petitioner

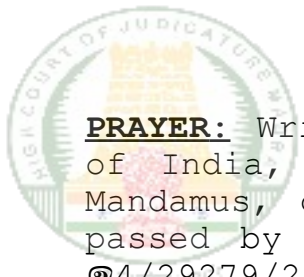
-Vs-

1.The Director,

Adi Dravidar Welfare Department,
Chepauk,
Chennai.

2.The District Adi Dravidar and Tribal Welfare Officer,
<https://hcservices.ecourts.gov.in/hcservices/>
Ramanathapuram District,
Ramanathapuram.

... Respondents



PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the order passed by the first respondent vide his proceedings in Na.Ka.No. 94/29279/2011 dated 27.04.2018 and quash the same and consequently, direct the respondents to allow him to continue with his service as a Jeep Driver at District Adi Dravidar and Tribal Welfare Office, Ramanthapuram District as expeditiously as possible within the time stipulation as prescribed by this Court.

For Petitioner	:	Mr.R.Anand
For Respondents	:	Mrs.S.Srimathy
		Special Government Pleader

COMMON ORDER

The prayer in W.P.(MD)No.9827 of 2018 is for a Writ of Certiorarified Mandamus, calling for the records pertaining to the second respondent's impugned order in Na.Ka.No.T5/7085/2018, dated 09.04.2018 and quash the same and further direct the second respondent to allow the petitioner to continue his work as a Jeep driver in Adi Dravidar and Tribal Welfare Department, Virudhunagar.

2.The prayer in W.P.(MD)No.13691 of 2018 is for a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the order passed by the first respondent vide his proceedings in Na.Ka.No.94/29279/2011 dated 27.04.2018 and quash the same and consequently, direct the respondents to allow him to continue with his service as a Jeep Driver at District Adi Dravidar and Tribal Welfare Office, Ramanthapuram District as expeditiously as possible within the time stipulation as prescribed by this Court.

3.Heard Mr.Karthick Subramanian, learned counsel appearing for the petitioner in W.P.(MD)No.9827 of 2018, Mr.R.Anand, learned counsel appearing for the petitioner in W.P.(MD)No.13691 of 2018 and Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents in both the writ petitions.

4.Since the facts related to the two cases are interconnected and overlapping in order to give quietus, these two writ petitions are disposed of by this common order.

5.In W.P.(MD)No.9827 of 2018, the petitioner, who is the Driver working in the respondents department i.e., Adi Dravidar and Tribal Welfare Department Officer, Office of the Adi Dravidar and Tribal Welfare, Virudhunagar District, Virudhunagar, has been transferred, by order dated 09.04.2018 to Ramanathapuram. Challenging the said order, the writ petition has been filed.

6.In W.P.(MD)No.13691 of 2018, here also, the petitioner is a Driver working at the District Adi Dravidar and Tribal Welfare Office at Ramanathapuram District, Ramanthapuram and he has been



transferred, by order dated 27.04.2018 to Virudhunagar i.e., the place, where the writ petitioner in W.P.(MD)No.9827 of 2018 was working.

7. The petitioner in W.P.(MD)No.9827 of 2018 is one Mr.R.Kanagaraj and the petitioner in W.P.(MD)No.13691 of 2018 is one Mr.K.Krishnamoorthy. In this common order, they will be referred by their name for the sake of convenience.

8.Challenging the respective transfer orders, both R.Kanagaraj and K.Krishnamoorthy filed the respective writ petitions as stated above.

9.Insofar as the case of R.Kanagaraj is concerned, he was working as a Driver at Virudhunagar. While so, in the year 2012, the said Kanagaraj, by order dated 23.03.2012, was transferred from Virudhunagar to Ramanathapuram. The said order was put under challenge in W.P.(MD)No.4183 of 2012, wherein, an interim order was passed by this Court on 02.04.2012, staying the said order of transfer. By virtue of the interim order of this Court, R.Kanagaraj was continuing at Virudhunagar. The said writ petition came to be disposed of only on 14.02.2018. While dismissing the said writ petition, the learned judge has made the following observation.

"7.This Court is of an opinion that the writ petitioner already worked in the same station for about 7 years and therefore, no further consideration is required in respect of the transfer order. Accordingly, it is left open to the authorities to take a decision in respect of further transfer of the writ petitioner to any other place in the interest of administration and if necessary on administrative grounds.

8.Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed."

10.Taking note of the fact from the said observation made by this Court, as referred to above, the second respondent in that writ petition, passed an order on 09.04.2018 relieving the said R.Kanagaraj from Virudhunagar enabling him to join at Ramanthapuram. In the said order dated 09.04.2018, no fresh transfer was given to the said R.Kanagaraj from Virudhunagar to Ramanathapuram. In view of the disposal of the writ petition challenging the earlier order of the transfer made in the year 2012, the second respondent construed it as a continuous process that the earlier transfer order got restored, pursuant to the disposal of the writ petition and accordingly, he had issued only a relieving order, dated 09.04.2018 to the said R.Kanagaraj. Therefore, challenging the said order dated 09.04.2018, the writ petition was filed by the Kanagaraj in W.P.(MD)



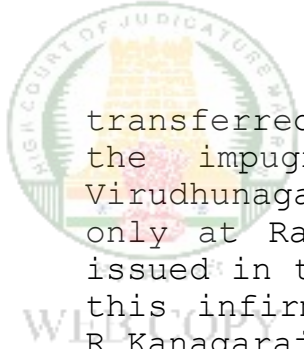
11. In view of the said order passed by the second respondent in that writ petition, where R.kanagaraj had been relieved from Virudhunagar enabling him to join at Ramanathapuram, the first respondent in W.P.(MD)No.13691 of 2018 i.e., Adi Dravidar Welfare Department, Chennai, passed necessary transfer order on 27.04.2018, transferring K.Krishnamoorthy from Ramanthapuram to Virudhunagar. The said order dated 27.04.2018 has been challenged in the writ petition in W.P.(MD)No.13691 of 2018. The said order was challenged by K.Krishnamoorthy on the ground that, only in order to implement the order passed by this Court in W.P.(MD)No.4183 of 2012, dated 14.02.2018 and also for administrative reasons, the said K.Krishnamoorthy has been transferred and therefore, the said transfer is not based on administrative reasons, but on the wrong premise/wrong understanding of the order passed by this Court in W.P.(MD)No.4183 of 2012.

12.Additionally, the said K.Krishnamoorthy is supported with yet another ground, where the second respondent in that writ petition i.e., the District Adi Dravidar and Tribal Welfare Officer, Ramanthapuram, has issued a long proceedings, dated 29.04.2018, explaining the difficulty, he would be facing, if the said K.Krishnamoorthy is transferred from Ramanthapuram for the reason that K.Krishnamoorthy is familiar with a local topography and therefore, it is easy for the second respondent to discharge his duty in time by using the Government vehicle with the help of the K.Krishnamoorthy and therefore, the second respondent indicating to the first respondent to cancel the said transfer order given to the K.Krishnamoorthy in order to retain him at Ramanathapuram itself.

13.In that view of the said factor that, the service of the said K.Krishnamoorthy was very much required by his employer i.e., the second respondent and also the order of transfer made against the said K.Krishnamoorthy by the first respondent on 27.04.2018 was based on the wrong premise to implement the order passed by this Court made in the earlier writ petition of the year 2012, by order, dated 14.02.2018, this Court, on considering, the prima facie case, granted order of status quo in W.P.(MD)No.13691 of 2018 on 28.06.2018. Since these two writ petitions, as referred at the initial para, are interrelated and the facts are overlapping with each other, both these writ petitions were tagged together and heard together.

14.Since the service of the K.Krishnamoorthy has to be retained as required by the second respondent in that writ petition, who is the employer of the said K.Krishnamoorthy, the respondents did not have any objection to retain him at Ramanthapuram.

15.However, insofar as the case of Kanagaraj is concerned, since he had been working at Virudhunagar itself, even after the earlier transfer order, for seven year, by virtue of the pendency of the writ petition, where he enjoyed the interim order of stay from 2012 to 2018, on administrative reasons he has to be



transferred and that is the stand of the respondents. However, in the impugned order of relieving the said R.kanagaraj from Virudhunagar, it has been mentioned that R.Kanagaraj has to join only at Ramanathapuram and also no fresh transfer order has been issued in this case except the impugned relieving order. In view of this infirmity, the relieving order dated 09.04.2018, insofar as R.Kanagaraj is concerned also to be interfered with.

16.In order to resolve this issue, the learned Special Government Pleader appearing for the respondents has submitted that, insofar as the case of K.Krishnamoorthy is concerned, he would be retained at Ramanthapuram and the order transferring him from Ramanthapuram to Virudhunagar would not be given effect to. Insofar as the relieving order issued to the R.Kanagaraj is concerned, if he is not able to fit at Ramanathapuram, in view of the decision that the K.Krishnamoorthy is retained at Ramanthapuram, the R.kanagaraj can be accommodated in any nearby area.

17.In this regard, the learned Special Government Pleader has produced the interdepartmental communication, dated 10.07.2018, between the Director of Adi Dravidar and Tribal Welfare Office, Chennai and the District Adi Dravidar and Tribal Welfare Officer, Virudhunagar, which is filed in W.P.(MD)No.9827 of 2018.

18.As per the said communication, there are vacancies at four places, such as, Chennai, Cuddalore, Pudukkottai and Tuticorin. In any of these places, according to the choice of the R.Kanagaraj, he can be accommodated. When this was specifically posed to the learned counsel appearing for the petitioner in W.P.(MD)No.9847 of 2018, the learned counsel appearing for the petitioner would submit that the petitioner i.e., Kanagaraj would prefer Tuticorin, which is a nearby District to his present station, Virudhunagar. When the said Kanagaraj has come forward to transfer him to Tuticorin, instead of Ramanathapuram and the second respondent wanted to retain the said K.Krishnamoorthy at Ramanthapuram, the issue now can be settled accordingly.

19.In that view of the matter, taking into account the overall factual matrix, this Court is inclined to pass the following order.

"that the impugned orders issued in both writ petitions are quashed. Consequently, the petitioner in W.P.(MD)No.13691 of 2018 (K.Krishna Moorthy) shall be retained at the present station, viz., Ramanthapuram. In respect of the petitioner in W.P.(MD)No.9827 of 2018 (R.Kanagaraj) is concerned, he shall be posted on transfer at the District Adi Dravidar and Tribal Welfare Office, at Tuticorin;

In this regard, necessary orders shall be immediately passed by the first respondent i.e., the Director of Adi Dravidar and Tribal Welfare Department, Chennai-5. On receipt of the said order, the second



respondent in W.P.(MD)No.9827 of 2018 shall relieve the said R.Kanagaraj from Virudhunagar enabling him to join at Tuticorin, forthwith."

20. In view of this confusion, since litigation had been filed, where interim orders also had been granted and by virtue of that the said R.Kanagaraj was retained at Virudhunagar till date, he shall be entitled to get the salary. Therefore, the respondents in W.P.(MD)No.9827 of 2018 are directed to release the salary of R.Kanagaraj for the period from the date of the impugned order / relieving order till date and settle the same forthwith.

21. With these directions, both the writ petitions are disposed of to the terms indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

/True copy/

Sub Assistant Registrar

To

1. The Director,
Adi Dravidar and Tribal Welfare Department,
Ezhilagam, Chennai.
2. The Adi Dravidar and Tribal Welfare Department Officer,
Office of the Adi Dravidar and Tribal Welfare Officer,
Virudhunagar District,
Virudhunagar.
3. The District Adi Dravidar and Tribal Welfare Officer,
Ramanathapuram District,
Ramanathapuram.

+1cc to Mr.S.Karthick Subramanian, Advocate, SR.No.72603.

+1cc to Special Government Pleader, SR.No.72509 & 72528.

W.P.(MD)Nos.9827 and 13691 of 2018
and

W.M.P.(MD)Nos.11205, 9033, 9034, 12428 and 12429 of 2018
11.07.2018

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RAM/RP/SAR 2/16.07.2018/6P/6C