



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 28.08.2018
CORAM:

**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

**W.A. [MD] .No.1115 of 2018
and
C.M.P. (MD) .No.8052 of 2018**

1. The Commissioner of Food Safety,
Food Safety and Drugs Administration Department,
Chennai 600 006.
2. The Designated Officer,
Tamil Nadu Food Safety and Drugs Administration Department,
[Food Safety Wing], Tirunelveli District,
Tirunelveli. : Appellants

Vs.

N.Mohammed Ismail Kasim : Respondent

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 30.07.2018 made in W.P.(MD).No.3823 of 2018, on the file of this Court.

Prayer in WP(MD)No.3823/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified mandamus to call for the records pertaining to the impugned order passed by the 1st respondent in her order R.No.10567/2014/S1/FSSA/ dt.15/02/2018 by reliving petitioner from the post of Food Safety Officer Vickramasingapuram Municipality, Ambasamudram Taluk, Tirunelveli District to petitioners parent department before Director of Town Panchayat and the consequential relieving order passed by the 2nd respondent in his order in R.No.803/A1/2018 dt.19/02/2018 and quash the same as illegal and further direct the respondents to pass appropriate orders to continue as Food Safety Officer at Vickramasingapuram Municipality, Ambasamudram taluk, Tirunelveli district.

For Appellants : Mr.B.Pugalendhi
Additional Advocate General
Assisted by Mr.S.Srimathy
Special Government Pleader

For Respondent : Mr.B.Saravanan

**JUDGMENT**

[**Judgment** of the Court was delivered by **M.M.SUNDRESH, J.**]

WEB COPY This Writ Appeal is directed against the order of the learned Single Judge dated 30.07.2018 made in W.P.(MD).No.3823 of 2018, in and by which, the learned Single Judge interfered with the impugned order of transfer by holding that it has got civil consequences and also punitive in nature and therefore, the respondent/writ petitioner must have been put on notice.

2. Though the said order is questioned by the appellants, it is submitted by the learned counsel appearing for the respondent/writ petitioner through the affidavit that it was consented at the time of arguments by yet another learned Additional Advocate General that the impugned order of transfer is punitive in nature and passed in violation of the principles of natural justice.

3. We are not inclined to go into the said issue. Considering the submissions made, we are of the view that it is appropriate for the appellants to go before the learned Single Judge and seek an adjudication on merits instead of assailing the order before us. While doing so, it is open to the appellants to raise all the contentions, including the issue as to whether the impugned order is punitive in nature and has got civil consequences or not. We request the learned Single Judge to consider all the issues afresh. The appellants are given liberty to file a petition for review within a period of two weeks from the date of receipt of a copy of this Judgment. In the meanwhile, status-quo as-on-today shall be maintained.

4. The Writ Appeal stands disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The Commissioner of Food Safety,
Food Safety and Drugs Administration Department,



2. The Designated Officer,
Tamil Nadu Food Safety and Drugs Administration Department,
[Food Safety Wing], Tirunelveli District,
Tirunelveli.

+1cc to Mr.S.Srimathy, Advocate SR.No.80725

+1cc to Mr.B.Saravanan, Advocate SR.No.80668

+2cc to SPECIAL GOVERNMENT PLEADER, SR.No.80972,81327

nb

MK/RP/SAR 2/05.09.2018/3P/6C

**JUDGMENT MADE IN
W.A. [MD] .No.1115 of 2018
28.08.2018**