



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P. (MD).No.22481 of 2018

and

W.M.P. (MD).No.20339 of 2018

N.Anbarasu

... Petitioner

Vs.

1. The Chief Executive Officer,
Tamil Nadu Khadi and Village Industries Board,
Kuralagam,
Chennai 600 108.
2. The Assistant Director,
Khadi and Village Industries,
Dindigul.
3. The Assistant Director,
Khadi and Village Industries,
Coimbatore.

... Respondents

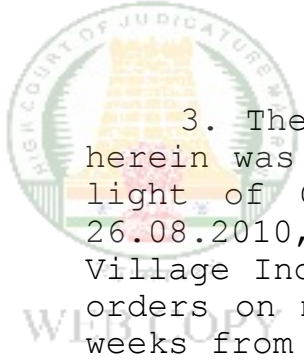
PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Certiorari to call for the records pertaining to the impugned order of deputation of the first respondent in Na.Ka.No.9282/E2/(2)/2018, dated 25.10.2018 and consequential order of the second respondent in Na.Ka.No.1308/E2/2018, dated 29.10.2018 and quash the same as illegal.

For Petitioner	:	Mr.J.Lawrance
For Respondents	:	Mr.GKarnan

O R D E R

Heard the learned counsel for the parties and the respondents were taken notice and has submitted his argument.

2. The writ petitioner herein was appointed as a Junior Beefeildman on 28.12.1998 in the Office of the Assistant Director of Khadi and Village Industries, Erode. He was promoted as Apiarist Grade III. He was deputed in the technical cadre as Soap Chemist vide proceedings dated 10.06.2002, issued by the first respondent and transferred to Soap Unit at Vedapatti. The grievance of the writ petitioner herein is that he is fully qualified and experienced to hold the post of Soap Chemist, however, his request to post him as Soap Chemist not been positively considered by the respondents. Therefore, he earlier preferred a writ petition in W.P. (MD).No.12033 of 2012, to refix his basic pay scale in service as Soap Chemist with effect from 12.09.2003.

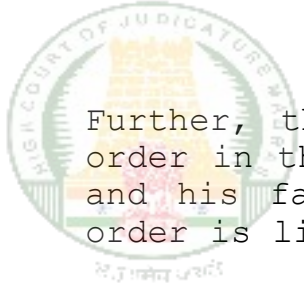


3. The said writ petition was allowed and the first respondent herein was directed to consider the claim of the petitioner, in the light of G.O.(Ms.) No.338, Finance (Pay Cell) Department, dated 26.08.2010, along with the Rule 15(2) of the Khadi Village and Village Industry Board Service Regulation 1966, and pass appropriate orders on merits and in accordance with law within a period of six weeks from the date of this order. Pursuant to the direction of this Court passed in W.P.(MD).No.12033 of 2012, dated 23.06.2014, the first respondent has passed an order on 05.09.2014, rejecting his request to post him as Soap Chemist, on the ground that there are adequate Soap Chemists in the respondent Units and the petitioner herein, who was initially posted in Honeybee Unit, has to join the said Unit and work in the existing post. It was also intimated in the said order that the petitioner herein will be transferred to the Honeybee Unit and the transfer Order will be issued separately.

4. The said communication of the first respondent dated 05.09.2014, was challenged by the writ petitioner in W.P.(MD). No.15967 of 2014, wherein this Court has passed an interim order to maintain status quo. The said writ petition is still pending. In the said circumstances, the first respondent has passed the impugned order dated 25.10.2018, transferring the writ petitioner herein from Dindigul to Ooty.

5. The said order which is impugned before this Court in the present writ petition indicates that due to administrative exigency, the writ petitioner herein, who is working under the Assistant Director of Khadi and Village Industries, Dindigul, is deputed to work at Uthagamandalam Eucalyptus Oil Unit. Pursuant to the order of the first respondent, the writ petitioner herein has been communicated about the deputation, by the second respondent's letter dated 29.10.2018, relieving him from Dindigul and join duty at Ooty.

6. The contention of the writ petitioner herein is that the impugned order is issued with mala fide intention to defeat the legitimate expectation of the writ petitioner, who seeking the post of Soap Chemist for which he is fully qualified, having denied his request and the same being challenged in the present transfer order under the guise of deputation without even mentioning the post to which he is sent on deputation bristles with illegality and infirmity. The impugned order is illegal and violative of the order passed by the High Court with an intention to defeat the valuable right of the petitioner, who is seeking post of Soap Chemist ever since 2002. By transferring the petitioner herein under the guise of deputation to a Unit which has nothing to do with his qualification and soap production will lead to break in his experience, in the soap production which will indirectly affect his right of being posted as a Soap Chemist and further higher post of promotion. He being treated as a technical staff all along, he cannot be posted in an non- technical post. The impugned order virtually amount to posting the writ petitioner in a non - technical post in order to deprive his claim which is now subject matter of the writ petition.



Further, the writ petitioner has also submitted that the transfer order in the middle of the academic year has caused hardship to him and his family members. Hence, on this ground also, the impugned order is liable to be set aside.

7. The learned counsel for the respondents would submit that there is no mala fide or illegal intention in the impugned order. The Soap Unit at Dindigul is not functioning and closed for want of licence from the Director of Drug Control. The impugned order has been passed due to administrative exigency on closure of the Soap Unit at Dindigul. All the other employees working in the Unit have been deputed to other place and they have joined duty except the writ petitioner. Hence, seeks for dismissal of the writ petition.

8. Considering the rival submissions, it is suffice to dispel the apprehension of the writ petitioner that the present impugned order will affect the merit of the writ petition and his claim as Soap Chemist under the technical cadre. Since the learned counsel for the respondents has placed before this Court that the Unit in which the petitioner herein was working is not functioning and already been closed, there is no purpose in entertaining this writ petition and the prayer as such cannot be considered, in view of the closure of the Unit.

9. Therefore, this Court, directs the the first respondent that, the petitioner on joining Ooty Unit, must be provided with specific post preferably a technical post. If there is no technical post available in Ooty Unit, whenever vacancy arises in any other Unit of Khadi and Village Industries Board elsewhere, his name may be considered preferentially. Till then his tenure in the non - technical post should not stand in the way of considering his candidature as a Soap Chemist which is now subject matter of the writ petition. Since the petitioner herein has already relieved on 29.10.2018 and not joined the new post, the petitioner is hereby directed to join the new post on or before 19.11.2018.

10. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

1. The Chief Executive Officer,
Tamil Nadu Khadi and Village Industries Board,
Kudalagan,
Chennai 600 108.



2. The Assistant Director,
Khadi and Village Industries,
Dindigul.

3. The Assistant Director,
Khadi and Village Industries,
Coimbatore.

- 1 CC TO Mr.J.LAWRANCE , ADVOCATE IN SR No. 95266.
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