



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.02.2018**

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) Nos. 12066 & 12067 of 2017

and

W.M.P. (MD). Nos. 9291 to 9294, 11224, 10026 & 10027 of 2017

R.Srinivasan

.. Petitioner in both Writ Petitions

Vs.

1.The State of Tamil Nadu,
Rep by Secretary to Government,
Municipal Administration &
Water Supply Department,
Fort St. George, Secretariat,
Chennai - 600 009.

2.The Commissioner of Municipal Administration,
Government of Tamil Nadu,
Chepauk, Chennai - 600 005.

3.The Commissioner,
Thanjavur Corporation,
Thanjavur.

... Respondents 1 to 3 in
both Writ Petitions

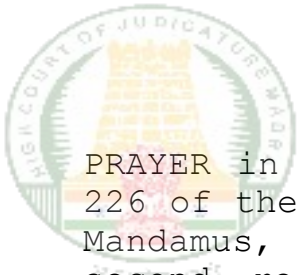
4.The Commissioner,
Dindugul Corporation,
Dindugul.

... 4th Respondent in
W.P.(MD).No.12066 of 2017

5.T.Raj Kumaran

... 5th Respondent in
W.P.(MD).No.12066 of 2017/
4th Respondent in
W.P.(MD).No.12067 of 2017

PRAYER in W.P.(MD).No.12066 of 2017: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for records relating to the proceedings of the second respondent herein bearing R.O.C.No.32919/2015/F1-2, dated 23.06.2017 insofar as it relates to the petitioner to quash the same and to bar the respondents herein from transferring the petitioner out of Thanjavur Corporation.



PRAYER in W.P.(MD).No.12067 of 2017: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for records relating to the proceedings of the second respondent herein bearing R.O.C.No.32919/2015/F1, dated 23.06.2017 insofar as it relates to the Employee at Serial No.12 therein and to quash the same and forbear the respondents herein from transferring the petitioner out of Thanjavur Corporation.

For petitioner : Mr. Ajmal Khan
Senior Counsel for
M/s.D.Senthil

For Respondents : Mr. J.Gunaseelan Muthiah
Additional Government Pleader
for R-1 & R-2 in both writ petitions

: Mr. P.Srinivas
for R-3 in both writ petitions

: Mr.R.J.Karthick
for private respondent
in both writ petitions

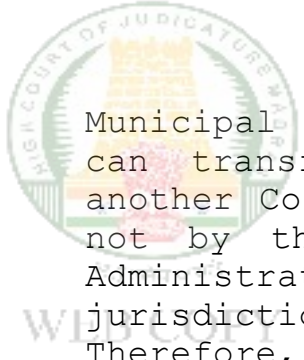
COMMON ORDER

Heard the learned counsel on either side.

2. In both the writ petitions one Srinivasan is the petitioner. He is employed as Executive Engineer in Tanjavore Corporation. By order dated 23.06.2017, the Commissioner of Municipal Administration/second respondent herein transferred him on deputation to Dindigul Corporation. One T.Rajakumaran/ private respondent in both writ petitions, who was working as Assistant Executive Engineer, Vellore Corporation, Vellore, was likewise transferred and posted in the place of Srinivasan by the second respondent herein. These Transfer proceeding are under challenge in these two writ petitions.

3. The learned Senior Counsel appearing for the petitioner contended that the impugned orders will have to be quashed for two reasons. Firstly, the orders are without jurisdiction and secondly consent has not been obtained from the petitioner for sending him on deputation.

4. This Court is of the view that both the contentions are well founded. The issue on hand is no longer *res integra*. A <https://hcjudgements.gov.in/judges/> order dated 02.06.2017 in W.P.(MD).No.4261 & 4262 of 2017, after referring to Section 116 of Coimbatore City Municipal Corporation Act, 1981, which applies to Tanjavore



Municipal Corporation held that it is only the Government which can transfer a Corporation employee from one Corporation to another Corporation. In this case, the impugned order was passed not by the Government but, by the Commissioner of Municipal Administration. Therefore on this sole ground of want of jurisdiction, the impugned orders are liable to be quashed. Therefore, the orders impugned in both the writ petitions are quashed.

5. These writ petitions stand allowed accordingly. No costs. Consequently, Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

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To:

1. The Secretary to Government,
The State of Tamil Nadu,
Municipal Administration &
Water Supply Department,
Fort St. George, Secretariat,
Chennai - 600 009.
 2. The Commissioner of Municipal Administration,
Government of Tamil Nadu,
Chepauk, Chennai - 600 005.
 3. The Commissioner,
Thanjavur Corporation,
Thanjavur.
 4. The Commissioner,
Dindugul Corporation,
Dindugul.
- +1 CC TO Mr. D.Senthil , Advocate, Sr.No. 49456
+1 CC TO Mr. P.Srinivas , Advocate, Sr.No. 49509
+1cc to M/S SPECIAL GOVERNMENT PLEADER, Sr.No. 49559

JAM/29/05/2018/ SKN-RSK/SAR 2/3p-8c

ORDER MADE IN

W.P. (MD) Nos. 12066 & 12067 of 2017
16.02.2018