



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :27.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P(MD)No. 3466 of 2011
and
MP(MD)Nos.1 and 2 of 2011

R.Kuppusamy

... Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Assistant Director of Town Panchyat,
Sivagangai, Sivagangai District,

3.The Executive Officer,
Selection Grade Town Panchyat,
Thiruppathur Post, Sivagangai District.

... Respondents

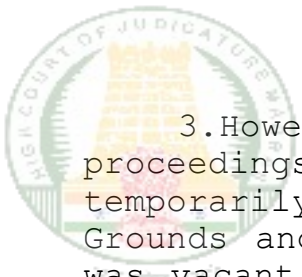
PRAYER:Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiori to call for the records in proceedings in Na.Ka.No.46/2010/A1 of the 3rd Respondent dated 28.02.2011 and quash the same as illegal.

For Petitioner	: Mr.C.Venkatesh Kumar
For Respondents 1 & 2	: Mr.R.Sethuraman, Special Government Pleader
For Respondent 3	:Mr.B.K.Rajendran

ORDER

The order of rejection dated 28.02.2011, rejecting the claim of the writ petitioner for retaining him in the post of Office Assistant is under challenge.

2.The writ petitioner was working as Office Assistant in the third respondent's office. The learned Counsel for the writ petitioner states that the petitioner was reverted to the post of Night Watchman from the post of Office Assistant in proceedings dated 07.03.2011. During the relevant point of time, the writ petitioner was under suspension. It is pertinent to note that the writ petitioner was appointed on 21.11.2007 as Night Watchman, through District Employment Exchange. The post of Office Assistant was vacant in the office of the 3rd respondent. Based on the request application submitted by the writ petitioner, he was appointed as Office Assistant in proceedings dated 14.08.2010 with instructions to attend work of Night Watchman also.



3. However, after sometimes, the respondents issued order in proceedings dated 28.02.2011, stating that the writ petitioner was temporarily permitted to work as Office Assistant on Administrative Grounds and in view of the fact that the post of Office Assistant was vacant, during the relevant point of time. In other words, the writ petitioner was permitted to serve as Office Assistant on the ground that there was a need in the Administration and the works were suffering for want of Office Assistant. After sometimes, the writ petitioner was given the post as Night Watchman.

4. The learned Special Government Pleader appearing on behalf of the respondents state that the scale of pay attached to the post of the Office Assistant and Night Watchman is one and the same and both posts are Group D Cadre posts. Therefore, the writ petitioner was not actually reverted and he was reposted to his original cadre as Night Watchman

5. Considering the arguments advanced, this Court is of an opinion that the writ petitioner was transferred from the post of Night Watchman to the post of Office Assistant. The proceedings dated 04.08.2010, categorically states that the writ petitioner was posted as Office Assistant on administrative grounds and however, the posts of Office Assistant and Night Watchman fall under the same cadre, carrying same scale of pay. It is unambiguously stated in the proceedings dated 04.08.2010 that the transfer was absolutely temporary and the writ petitioner can be reposted as Night Watchman on administrative grounds, without giving any show cause notice. When the order of appointment categorically stipulates such condition, the writ petitioner cannot say that no notice was issued to him. This apart, he was transferred and posted as Office Assistant only on administrative grounds and the salary in the post Night Watchman is protected and both Night Watchman and Office Assistant posts are equivalent cadre, carrying same scale of pay.

6. Under these circumstances, the claim of the writ petitioner to retain him in the post of Office Assistant is untenable. The post and place can never be claimed as a matter of choice by the employees and a particular cadre too cannot be claimed as a matter of right. When it is unambiguously stated in the impugned order that the writ petitioner was re-transferred to his original post as Night Watchman and when the salary of the writ petitioner is protected, then the same cannot be construed as reversion at all. This apart, the posts of Night Watchman and the Office Assistant are carrying same scale of pay and therefore, the writ petitioner cannot have any grievances in respect of the the services conditions stipulated. This being the factum of the case, the writ petitioner has not made out any valid ground for the purpose of considering the relief as such sought for in this writ petition.

4. Accordingly, the writ petition stands dismissed. However,



there shall be no orders as to costs. Consequently, connected miscellaneous petition is closed.

Sd/
Assistant Registrar (CS-II)

/True copy/

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Sub Assistant Registrar

To

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Assistant Director of Town Panchyat,
Sivagangai, Sivagangai District.

3.The Executive Officer,
Selection Grade Town Panchyat,
Thiruppathur Post, Sivagangai District.

+1cc to M/S.AJMAL ASSOCIATES, Advocate, SR.No. 58572

+1cc to M/s.Special Government Pleader, SR.No.59285

W.P (MD) No.3466 of 2011
27.03.2018

DSK

KK/KK/16.04.2018/SAR-2/3P-6C