



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P. (MD) No. 6397 of 2013
and
M.P. (MD) No. 1 of 2013

A. Manoharan

... Petitioner

Vs.

1. The Director,
Adi-Dravida Welfare Department,
Chepauk,
Chennai-600 005.

2. The District Adi-Dravida and Tribal Welfare Officer,
Collectorate,
Trichy-1.

... Respondents

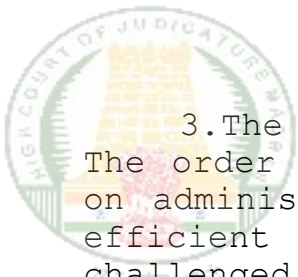
Prayer: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the first respondent in proceeding Na.Ka.No.E5/22835/12, dated 11.03.2013, and quash the same as illegal unsustainable.

For Petitioner : Mr. S. Sathish Kumar
For Respondents : Mr. VPM. Vaishnavi
Government Advocate

ORDER

The order of transfer issued by the first respondent in proceedings dated 11.03.2013 is under challenge in this writ petition.

2. The writ petitioner was appointed as Office Assistant on 05.08.1987 at Government Adi-Dravida Welfare High School, Thiruvashi, Manachanallur Taluk, Trichy District. Thereafter, he was promoted as Record Clerk and was posted at District Adi-Dravida Welfare Office, Trichy. Subsequently, the petitioner was promoted as Junior Assistant in the year 2009. While so an order of transfer was issued in proceedings dated 11.03.2013 transferring the writ petitioner from Government Adi-Dravida Welfare Higher Secondary School, Thulaiyanatham to Government Adi-Dravida Welfare High Secondary School, Sengarai, Kollimalai Taluk, Namakkal District.



3.The order of transfer was issued on administrative grounds. The order impugned states that the writ petitioner was transferred on administrative grounds. Administrative transfers are issued for efficient and effective administration. Such orders cannot be challenged in a routine manner. The Judicial review against the order of transfer are limited and the relief can be granted only on exceptional circumstances and based on certain limited legal grounds.

4.The Writ can be issued against the orders of transfer only on exceptional circumstances if the order of transfer was issued by an authority without Jurisdiction or an incompetent authority issued the order or if the transfer order is in violation of the statutory rules in force or an allegation of mala fides are raised. In case of raising allegation of mala fides against the authority, it is necessary that such an authority against whom allegations are raised is to be impleaded as a party in the writ proceedings in his personal capacity. In the absence of any one of such legal grounds, no order of transfer can be subjected to judicial review under Article 226 of the Constitution of India.

5.The transfer is an incidental to service, more so, a condition of service. Place or post can never be claimed as a matter of choice by the public servant. Government employees where ever posted is bound to work in the interest of public administration. Thus, a mere transfer, on administrative grounds will not provide any cause to move a writ petition under Article 226 of the Constitution of India. However, if the order of transfer is issued by an incompetent authority, having no jurisdiction or if allegation of mala fides are raised or if the same is in violation of the statutory rules in force, then the writ proceedings can be entertained. In case of raising, an allegation of mala fides, the authority against whom such allegations are raised to be impleaded as party respondent in the writ proceedings in his personal capacity. Thus, the scope of entertaining a writ against an order of transfer is certainly limited.

6.It is brought to the notice of this Court by virtue of an interim order granted in this writ petition, the writ petitioner is continuing in the same station for more than five years. This being the factum, it is for the competent authority to take a decision and pass any further transfer if necessary on administrative grounds and therefore, further, continuance of the writ petitioner based on the interim order is certainly not preferable. Accordingly, the writ petition stands dismissed. No costs. Consequently, M.P.(MD).No.1 of 2013 is also dismissed.

Sd/-

Assistant Registrar (Crl.side)

/True Copy/

<https://hcservices.ecourts.gov.in/hcservices/>

Sub Assistant Registrar



To:

1. The Director,
Adi-Dravida Welfare Department,
Chepauk,
Chennai-600 005.
2. The District Adi-Dravida and Tribal Welfare Officer,
Collectorate,
Trichy-1.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 51341

VSG/TA

TE/RSK/SAR-2 : 08/05/2018 : 3P/4C

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M.P. (MD) .No.1 of 2013
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