

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2019

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No. 9906 of 2018

and

W.M.P.No. 11837 of 2018

S.Jayakumar

..petitioner

Vs

1. Chief Internal Audit Officer
TANGEDCO/Audit Branch
NTKRR Maaligai
1st Floor, 144, Anna Salai
Chennai - 02.
 2. Senior Deputy Chief Internal Audit Officer/Pension
TANGEDCO/Audit Branch
NTKRR Maaligai
1st Floor, 144, Anna Salai
Chennai - 02.
 3. Senior Deputy Chief Internal Audit Officer/Appraisal
TANGEDCO/Audit Branch
NTKRR Maaligai
1st Floor, 144, Anna Salai
Chennai - 02.
 4. Deputy Chief Internal Audit Officer
TANGEDCO/Audit Branch
NTKRR Maaligai
1st Floor, 144, Anna Salai
Chennai - 02.
 5. Deputy Chief Internal Audit Officer
Audit Branch/TANGEDCO
Erode region
Erode 638 009.
- WEB COPY ..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the fifth respondent in connection with the impugned order of transfer and relieving order issued by the fifth respondent in Memo No: 000643/Pt No.382/F.31/F.318-1/2018, dated 12.04.2018 transferring the petitioner and quash the same.

For Petitioner : Mr.M.D.Thirunavukkarasu
For Respondents : Mr.P.R.Dhilipkumar
Standing Counsel

O R D E R

The order of transfer issued in proceedings dated 12.04.2018, transferring the writ petitioner from Auditor/Regional Office/Erode Region to Audit party.4/Erode Region is under challenge in the present writ petition.

2. The writ petitioner is transferred within the same Region at Erode. The ground raised in the writ petition is that the authorities have not considered the health issues placed by the writ petitioner and no proper reason has been given for the issuance of the impugned transfer order and therefore, the impugned transfer order is liable to be scrapped.

3. Administrative transfers are issued on various circumstances and on various grounds. For instance, continuance of certain public servants in a particular post, may not be conducive for the peaceful administration or their further continuance may cause certain troubles to the people, who all are the beneficiaries in the Department. There are various such administrative aspects, which all are the reasons for the administrative transfers. Courts would not be in a position to scrutinize or conduct an enquiry in respect of those reasons for such issuance of the administrative transfers.

4. Administrative transfers are the prerogative of the Department concerned and the competent authorities are the best persons to assess and act accordingly. However, those competent authorities should act in the interest of public and in the event of any illegality or some personal motive, then alone, the employee can approach the Court of law for appropriate remedy. In other words, if an order of transfer is issued with a mala fide intention or in violation of the statutory rules, then a writ petition can be entertained. Even in such cases, the allegation of mala fide intention must be substantiated in the writ proceedings and the official concerned must be impleaded as party respondents in the writ proceedings. In the absence of any such legal ground, routine administrative transfers can never be interfered with by the Constitutional Courts. Transfer is an incidental to service, more so, a condition of service. Public servant is liable to work wherever he is posted in the interest of public administration. On accepting the offer of appointment, a person is agreeing for the conditions of service

and transfer being incidental, he must be in a position to work, wherever he is posted.

5. Place or post can never be claimed as a matter of choice by the public servants. All public servants are duty bound to perform their duties diligently and with utmost care and devotion. This being the basic principles to be followed and erosion in this regard can never be tolerated either by the officials or by the Courts. High Court cannot interfere with the routine administration of the State or its organization. In the event of such routine interference in administration, more specifically, in transfer cases, the very discipline and the functioning of the administration would be paralyzed. Thus, the judicial review of administrative transfers must be exercised with restraint and only on exceptional circumstances, such orders of transfers can be interfered with by the High Courts and not otherwise. This being the scope of the judicial review of administrative transfers issued by the competent authorities, this Court is of an undoubted opinion that the writ petitioner has not established any such strong acceptable ground for the purpose of interference in the order of transfer.

6. This being the factum, the writ petitioner has not established any acceptable legal ground for the purpose of interference with the administrative order of transfer and accordingly, the writ petition is devoid of merits and stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (AD-IV)

//True copy//

Sub Assistant Registrar

kmm/ssb

W.P.No. 9906 of 2018

KK (CO)
GMY (24/05/2019)

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