

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.02.2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.4192 of 2019
and
WMP.No.4707 & 4709 of 2019

E.Rajakumar

... Petitioner

...Vs...

1. The Director of Public Health and Preventive Medicine,
Teynampet, Chennai- 600 006.
2. The Deputy Director of Health Services,
Salem-1. ... Respondent

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records connected with the proceedings issued in R.No.75634/E5/A1/2018 dated 12.01.2019 passed by the 1st respondent and proceedings issued in R.No.4181/E1/2018 dated 28.01.2019 (served on 04.02.2019) passed by the 2nd respondent and quash the same and consequently direct the respondents to allow the petitioner to continue in Sarakkapillayur Primary Health Centre.

For Petitioner : Mr.S.Ilamvaludhi

For Respondents 1&2 : Mr.A.N.Thambidurai.
Spl.Govt.Pleader

O R D E R

The order of transfer dated 12.01.2019 passed by the first respondent and the consequential proceeding dated 28.01.2018, the relieving order are in challenge in the present writ petition.

2. The writ petitioner was appointed as Assistant Surgeon on 07.09.2010. The learned counsel for the writ petitioner states

that after the appointment of the writ petitioner, near about 4 times he was transferred and the present transfer order was issued in proceeding dated 12.01.2019 transferring the applicant from Primary Health Centre, Sarakkapillayur, Salem Health unit District to Primary Health Centre, Chinna Mottur, Tirupathur Health unit District in an existing vacancy on administrative grounds.

3. The grounds raised in the present writ petition is that, the transfer is made in an arbitrary manner. Routine transfers cannot be issued and as per G.O.Ms.No.10 Personnel and Administrative Reforms (Per-S) Department dated 07.01.1994, no transfer can be issued during the middle of the academic year.

4. The learned counsel for the writ petitioner states that, the only son of the writ petitioner is pursuing his education in Salem and the present transfer will disturb the normal life of the writ petitioner along with his family. This Court is of the considered opinion that, administrative transfers cannot be interfered with in a routine manner. Judicial review against an order of administrative transfer is undoubtedly limited.

5. Transfer is an incidental for service, more so, a condition of service and the public servant are liable to be transferred on administrative exigencies and on administrative needs and necessity. Thus, an order of transfer can be challenged only on limited grounds. If an order of transfer is issued without having any jurisdiction or competency or if an allegations of malafides are raised or if the same is in violation of the statutory rules in force. Even in case of raising an allegations of malafides, the authorities against whom such an allegation is raised to be impleaded as party respondent in his personal capacity. In the absence of any one of the legal grounds, no writ proceedings can be entertained against an order of transfer. Though no such legal grounds are raised in the present writ petition, the learned counsel for the petitioner urged this Court by stating that, the education of the son of the writ petitioner is being affected and therefore, he must be allowed to continue till the end of the academic year, that is up to May 2019.

6. However, these personal grievances are to be redressed only by the Competent Authorities. Courts cannot interfere with the routine administration of the departments. It is the prerogative of the Competent Authorities to transfer and issue posting orders to the Government employees based on certain principles and on administrative grounds. Thus, the courts would not be in a position to entertain a writ petition for the purpose of issuing a direction which all are administrative in nature.

7. However, the writ petitioner is at liberty to approach the Competent Authorities in order to redress his personal grievances if any and therefore, this Court is not inclined to consider the writ petition with reference to the relief as such sought for in the present writ petition.

8. Accordingly, the writ petition stands dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Pkn

To

1. The Director of Public Health and Preventive Medicine,
Teynampet, Chennai- 600 006.
2. The Deputy Director of Health Services,
Salem-1.

+1 cc to The Government Pleader, Sr.No.14087

+1 cc to M/s.S.Ilamvaludhi, Advocate Sr.No.14422

CSL/06.03.2019

W.P.No.4192 of 2019

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