

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.02.2019

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.5547 of 2019
and
W.M.P.No.6315 of 2019

G.Sankaralingam

.. Petitioner

vs

- 1.The District Adi Dravidar and Tribal Welfare Officer(I/C)
District Adi Dravidar and Tribal Department,
Villupuram.
- 2.The Deputy Superintendent of Police,
Vigilance and Anti-Corruption
Sudhakar Nagar
New Bus Stand Opposite
Villupuram - 605 002
- 3.The Special Tahsildar
Office of Special Tahsildar
District Adi Dravidar and Tribal Department
Villupuram.
- 4.The Director,
Adi Dravidar and Tribal Welfare
Chepauk,
Chennai - 600 005

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned order of transfer which was issued by way of punishment without notice by the first respondent in Na.Ka.M1/ 958 /2019 dated 31.1.2019 and quash the same as arbitrary illegal and against the principles of natural justice.

For Petitioner : Mr.B.Sivaraman

For Respondents : Mr.R.S.Selvam
Government Advocate

O R D E R

The order of transfer dated 31.01.2019, transferring the writ petitioner from Adi Dravidar Welfare Boys Hostel, Thumboor to Adi Dravidar Welfare Boys Hostel, Tindivanam is under challenge in the present writ petition.

2.The learned counsel for the writ petitioner states that the order of transfer is issued by way of a punishment and therefore, the said order is liable to be set aside.

3.It is contended that the petitioner has been working as a Cook at Adi Dravidar Welfare and Tribal Welfare Department and he was working at Thumboor. There was a surprise inspection conducted by the team of the 2nd respondent / Deputy Superintendent of Police, Department of Vigilance and Anti-Corruption, who in turn, recovered Rs.2,000/- (Rupees Two Thousand only). Subsequently, the writ petitioner could able to establish that the said amount had been withdrawn from his own account and no action has been taken in this regard. Subsequently, the impugned transfer order was issued, citing this reason.

4.The learned counsel for the writ petitioner states that the impugned order of transfer is issued by way of a punishment and therefore, the order is liable to be scrapped.

5.The learned Government Advocate appearing on behalf of the respondents states that the writ petitioner was transferred on administrative grounds. This apart, the distance between the Thumboor and Tindivanam is 30Kms and therefore, the writ petitioner's normal life would not be affected.

6.This Court is of an opinion that transfers can be issued on various grounds. On a perusal of the impugned transfer order, it is stated that the writ petitioner is transferred on administrative ground and in the interest of administration. This apart, the writ petitioner is transferred from Thumboor to Tindivanam, which is not far away and within the same District, namely, Villupuram District. Transfers are imminent in respect of public servants, whenever there is a wide complaint against the employee is made known to the competent authorities. In certain circumstances, there may not be an evidence to prosecute the employee or to initiate departmental disciplinary proceedings. However, the competent authorities may of the opinion that further continuance of a public servant in a particular place would cause inconvenience as well as cause some difficult situation for the peaceful functioning of the public administration. Thus, in those circumstances, transfers alone are the remedies in the interest of public administration.

Therefore, it is not necessary that there must be a transfer only after conducting an enquiry or initiation of disciplinary proceedings.

7. 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.

8. 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.

9. 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.

10.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(CS IV)

//True Copy//

Sub Assistant Registrar

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To

- 1.The District Adi Dravidar and Tribal Welfare Officer(I/C)
District Adi Dravidar and Tribal Department,
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 - 2.The Deputy Superintendent of Police,
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Villupuram.
 - 4.The Director,
Adi Dravidar and Tribal Welfare
Chepauk, Chennai - 600 005
- +1 cc to The Government Pleader, Sr.No.18277
+1 cc to Mr.B.Sivaraman, Advocate Sr.No.17418

W.P.No.5547 of 2019

KAN(CO)
CSL/26.03.2019