

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.02.2019

CORAM

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

W.P.No.4588 of 2019
and
W.M.P.Nos.5189 & 5191 of 2019

K.Ramabai

... Petitioner

vs

1.The Director of Adi Dravidar Welfare
"Ezhilagam"
Chepauk, Chennai - 600 005

2.The District Adi Dravidar Welfare Officer
Vellore, Vellore District - 632 009

3.The Headmistress
Government (ADW) High School
Ammanangkuppam
Gudiyatham Taluk
Vellore District - 635 803

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, Calling for the records pertaining to the order passed by the 1st respondent in his proceedings Na.Ka.No.Tha.2/23447/2018 dated 22.12.2018 and relieving order passed by the 3rd respondent in her proceedings Na.Ka.No.89/2019 dated 02.01.2019 and quash the same and direct the respondents to confer all consequential benefits.

For Petitioner : Mr.P.Ganesan
for M/s.C.S.Associates

For Respondents : Mr.M.Elumalai, Government Advocate

O R D E R

Establishing a legal right is a pre-condition to entertain a writ petition under Article 226 of the Constitution of India. In the absence of any legal right, no writ petition would be entertained by this Court, more specifically, to interfere with the order of transfer as the present writ petition is filed, challenging the order of transfer.

2. On a perusal of the order of transfer dated 22.12.2018, the writ petitioner, who is holding the Post of B.T. Assistant (History) is transferred from Ammanangkuppam to Odugathur, Anaicut Taluk, Vellore District. The distance between these two places are not very long.

3. The grievances of the writ petitioner is that she wants to continue in the teaching line and not interested to serve as a Warden in Adi Dravidar Welfare Girls Hostel.

4. Place, Post or nature of job can never be claimed as a matter of right by a public servant. Whether an employee is to be posted as a Teacher or as a Warden is to be decided by the competent authorities and in the interest of administration. Such an administrative decision taken by the competent authority can never be interfered with by the Constitutional Courts in a routine manner. In the event of considering all these personal grievances, this Court is afraid that the Courts would be running the administration, which is certainly not preferable and therefore, the Courts must exercise restraint in respect of interference in administrative transfer.

5. Transfer is an incidental to service, more so, a condition of service. A public servant is supposed to serve wherever he / she is posted in the interest of public and for the welfare of the public administration. A public servant is enjoying a status in the society and by virtue of that status, they are bound to maintain integrity, honesty and devotion of duty towards the public.

6. Undoubtedly, transfers cannot be issued by way of a punishment or on personal vengeance of the officials. Transfers are to be made only on administrative grounds and on administrative exigencies. If at all, an order of transfer is issued on extraneous considerations, then alone, the employees are at liberty to challenge the same and not otherwise.

7. No writ petition can be entertained against an order of transfer in a routine manner. Judicial review against the order of transfer is certainly limited. An order of transfer can be challenged, if the same is issued by an incompetent authority,

having no jurisdiction or an allegation of mala fides are raised or if the same is in violation of the statutory rules in force. Even, in case of raising an allegation of mala fides, the authority against whom such an allegation is raised, to be impleaded as a party respondent in the writ proceedings in his personal capacity. In the absence of any one of these legal grounds, no writ petition can be entertained against an order of transfer in a routine manner. High Court cannot intervene with the administrative transfers. Transfers are not punishment. Transfers are incidental to service.

8.Thus, the writ petitioner has not established even a semblance of legal right, so as to consider the relief as such sought for in the present writ petition.

9.Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

- 1.The Director of Adi Dravidar Welfare
"Ezhilagam"
Chepauk, Chennai - 600 005.
- 2.The District Adi Dravidar Welfare Officer
Vellore, Vellore District - 632 009.
- 3.The Headmistress
Government (ADW) High School
Ammanangkuppam
Gudiyatham Taluk
Vellore District - 635 803.

+1cc to M/S.C.S.Associates, Advocate Sr.14923
+1cc to the Government Pleader sr.16059, 15126

W.P.No.4588 of 2019

rk[co]
srg 13/03/2019