

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2019

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No. 9720 of 2018
and WMP.Nos.11639and 11640 of 2018

A.Nallasivam

... Petitioner

-Vs-

1. The Director of Rural Development and
Panchayat Raj Department,
Panagal Building, Saidapet,
Chennai - 600 015.

2. The District Collector,
Erode District.
Erode.

3. The Personal Assistant to the
District Collector (Development)
Erode District.
Erode.

4. The Special Officer,
Block Development Officer (VP),
Erode Block,
Erode District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the
Constitution of India to issue a Writ of Mandamus, to directing
the second and third respondents to consider the representation
of the petitioner dated 27.12.2017 and 06.02.2018 within a
stipulated time.

For Petitioner : Mr.P.P.Shanmugasundaram

For Respondents : Mr.A.N.Thambidurai,
Special Government
Pleader

O R D E R

It is a pre-condition that a person approaching the High Court under Article 226 of the Constitution of India should establish the legal right. In the absence of a legal right, no writ petition can be entertained. This, being the basic principles to be adopted, the present writ petition is filed seeking a direction to consider the representation to transfer the writ petitioner from one place to another place.

2. On a perusal of the representation dated 06.02.2018, the writ petitioner seeks transfer from Pazhamangalam Panchayat to Pichandampalayam Panchayat, which is nearby Erode. The High Court, cannot issue any such direction to consider the request of transfer application and such an interference in the routine administrative affair is beyond the scope of the judicial review of the High Court under Article 226 of the Constitution of India. The power of the judicial review conferred cannot be extended so as to issue orders in the nature of the recommendations. The personal grievances and circumstances are to be considered by the competent authorities and certainly not by the High Court. The High Court can entertain the writ petition only in the event of establishing the legal right and cause of action.

3. Transfer is an incidental service more so a conditional service. The post or place can never be claimed as a matter of choice. The public servant is expected to serve wherever he is posted in the interest of the public and for the welfare of the public administration. It is the administrative prerogative of the competent authority to post the employees for efficient functioning of the departments. However, while undertaking the process of transfer, the authorities must be consistent, uniform and all the cases are to be considered without any discrimination.

4. In the present case on hand, the writ petitioner seeks disposal of the representation wherein he requested the authorities to transfer him from one place to another place and the said representation cannot be considered by this Court and it is left open to the petitioner to approach the authorities in this regard.

5. This being the legal principles to be considered, the writ petitioner has miserably failed to establish even a semblance of legal right so as to consider the relief as such sought for in the present writ petition.

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

Sd/-
Deputy Registrar (CJ Conf)

//True copy//

Sub Assistant Registrar

mp/ssm

To:-

1. The Director of Rural Development and
Panchayat Raj Department,
Panagal Building, Saidapet,
Chennai - 600 015.
2. The District Collector,
Erode District.
Erode.
3. The Personal Assistant to the
District Collector (Development)
Erode District.
Erode.
4. The Special Officer,
Block Development Officer (VP),
Erode Block,
Erode District.

+1cc to Mr.P.P.Shanmugasundram, Advocate SR.No.41696

+1cc to Government Pleader, High Court, Madras SR.No.42546

W.P.No. 9720 of 2018

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

WEB COPY