

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.03.2019

CORAM

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

W.P.No.6449 of 2019  
and  
W.M.P.Nos.7261 & 7264 of 2019

N.Babu

..Petitioner

vs

1.The Director of Rural Development and  
Panchayat Raj,  
Saidapet, Chennai - 15.

2.The District Collector,  
Kanchipuram District.  
@ Kanchipuram.

3.Tmt.J.Thamizharasi  
Assistant Executive Engineer (R&B)  
Namakkal Sub Division,  
Namakkal District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order of the first respondent herein passed in his Proc.No.17053/2015/EE1.1 dated 26.2.2019 transferring the petitioner from Madurantagam Sub Division to Krishnagiri Sub Division and quash the same in so far as the petitioner and third respondent herein are concerned and consequently direct the first and second respondents herein to allow the petitioner to continue in Madurantagam Sub Division.

For Petitioner :Mr.Ravi Shanmugam  
For Respondents :M/s.P.Rajalakshmi  
Additional Government Pleader  
for R1 & R2

O R D E R

The order of transfer dated 26.02.2019 is under challenge in the present writ petition.

2.The writ petitioner was directly recruited to the Post of Assistant Engineer and subsequently, promoted as Assistant Executive Engineer during the year 2007. The writ petitioner is transferred from Madhuranthagam Sub Divison, Kancheepuram District to Krishnagiri Sub Division, Krishnagiri District through the impugned order of transfer dated 26.02.2019.

3.The learned counsel for the writ petitioner states that the reasons stipulated in the impugned order of transfer is false and far beyond the truth. The husband of the 3<sup>rd</sup> respondent is a Contractor and at whose instance, the impugned transfer order is issued, transferring the writ petitioner from Kancheepuram District to Krishnagiri District. Broad allegations are made by the writ petitioner that corrupt activities are going on in transfer cases in the Department and the officials are also not initiating appropriate steps for the purpose of controlling these kind of irregular and illegal activities.

4.This Court is of the considered opinion that whenever an allegation of mala fides are raised, the authorities against whom such an allegation is raised to be impleaded as party respondent in his personal capacity in the writ proceedings. This apart, unsubstantiated allegations can never be considered by the Court in the writ petition in view of the fact that the impugned order is an administrative transfer and as per the order, it is stated that the transfer orders to 69 officials were made pursuant to the instructions issued by the Election Commission of India.

5.When such is the findings stated in the order, this Court cannot go in respect of certain allegations, which all are made broadly by the writ petitioner.

6.The writ petitioner is working in the cadre of an Assistant Executive Engineer and the post is a responsible one and the higher officials are certainly subjected to transfer on administrative exigencies and at the instructions of the Government or by the Election Commission of India. This apart, 69 officials are transferred through the impugned order. Therefore, the allegation of mala fides now raised cannot be considered unless it is substantiated through the evidences and documents.

7.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. Transfers on administrative grounds are imminent for effective and efficient public administration. Transfer is not only an administrative necessity, but required to avoid all sort of familiarity of these public officials with the public of that locality. Thus, administrative transfers are issued uniformly and by adopting a consistent principle.

8.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.

9.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.

10.In view of the fact that the impugned order of transfer has been issued based on the instructions by the Election Commission of India and the writ petitioner is working in the cadre of Assistant Executive Engineer, this Court is not inclined to consider the case of the writ petitioner and the writ petitioner being a public servant, has to serve in the interest of public as well as the public administration.

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

s/d-  
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

To

1.The Director of Rural Development and  
Panchayat Raj,  
Saidapet, Chennai - 15.

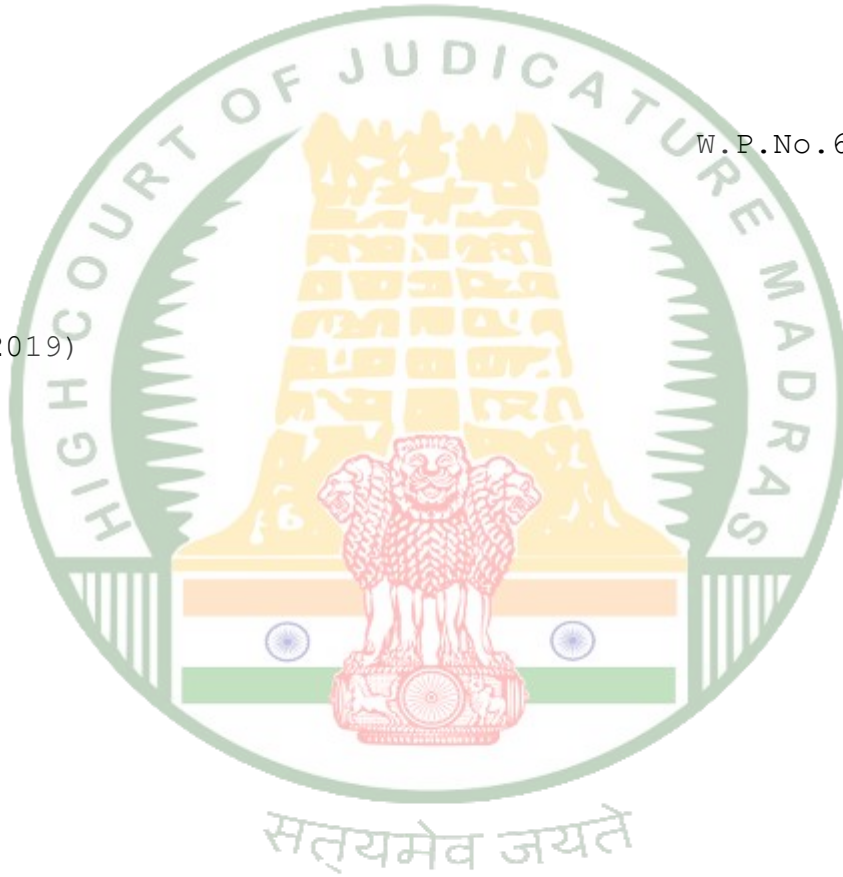
2.The District Collector,  
Kanchipuram District.  
@ Kanchipuram.

+1 CC to Mr.Ravi Shanmugam, Advocate sr 21697.

+1 CC to Govt. Pleader sr 22618.

W.P.No.6449 of 2019

BR(CO)  
SP(27/03/2019)



WEB COPY