

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.02.2019

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

W.P.No.9816 of 2018

and

W.M.P.Nos.11740 & 11741 of 2018

R.Anitha

.. Petitioner

vs

1.The Commissioner of Police
Greater Chennai Police
Veppery
Chennai - 600 007

2.The Additional Commissioner of Police
Greater Chennai Police
Head Quarters, Veppery
Chennai - 600 007

3.The Joint Commissioner of Police
Greater Chennai Police
East Zone, Egmore
Chennai - 600 008

4.The Inspector of Police
J4-Kotturpuram Police Station,
Kotturpuram
Chennai - 600 085

5.The Inspector of Police
W23-Royapettah All Women Police Station
Royapettah
Chennai - 600 014

.. 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 relating to the impugned order of Transfer vide Rc.No.Estt.I/EZ/39/595/2018-16 EZO No.211/2018 dated 05.04.2018 on the file of the 3rd respondent and quash the same in so far as the Petitioner is concerned.

For Petitioner : Mr.S.Kumara Devan
For Respondents : Mr.A.N.Thambidurai
Special Government Pleader

O R D E R

The impugned order of transfer issued by the 3rd respondent in proceedings dated 05.04.2018 is under challenge in the present writ petition.

2.The order dated 5.04.2018 issued by the Joint Commissioner of Police(South Zone), states that the writ petitioner was transferred from J4 Kotturpuram Police Station to M5, Ennore Police Station on administrative grounds.

3.Challenging the said order, the writ petitioner states that she was recruited directly to the Post of Sub Inspector of Police and during the year 2012-2013, she was working in Ice House Police Station(L&O); during the year 2013-14, she was working in Mylapore Police Station(Crime); during the year 2014, she was working in Marina Police Station; during the year 2014-2017, she was working in Kotturpuram Police Station. From October 2017 onwards, the writ petitioner is working in All Women Police Station in Royapettah.

4.This Court is of an opinion that the Sub Inspector of Police, on appointment, accepts the condition of service that they are liable to be transferred anywhere across the State as well as outside the State, wherever the Tamil Nadu Police Cadre, are serving.

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. This being the conduct of a public servant, more specifically, in Uniformed Services. This Court is of an opinion that the writ petitioner all along from the year 2012 onwards serving within the main Chennai City and it is a great surprise, how the superior officials are allowing the Sub Inspector of Police serving within the City for more number of years without any valid reason. 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. If a public servant is allowed to work in a same Station, more specifically, the Uniformed personnel for more number of years, then they will develop a sort of familiarity in the locality and it may lead to several other problems including the maintenance of Police force by the superior officials. Thus, the administrative transfers are issued uniformly and by adopting a consistent principle.

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.

8. High Court cannot intervene with the administrative transfers. Transfers are not punishment. Transfers are incidental to service. In the event of interfering with the administrative transfers by the Constitutional Courts, more specifically, in Uniformed Services, the same will paralyze the administration of the forces and the Courts would not enter into the administrative arena of the Police Department. It is the wisdom and prerogative of the competent authorities to effect administrative transfers for efficient and smooth functioning of the Police Department and the controlling the Police force and maintain its discipline.

9. Uniformed services are disciplined forces. Thus, an amount of control by the higher officials are certainly required. These Police personnels are handling arms and ammunitions. Thus, they are bound to maintain utmost integrity and discipline and obedience of the orders of the superiors. In the event of any

such indiscipline, the same would create chaos in the Uniformed Services. All these aspects are to be considered by the Constitutional Courts, while exercising the powers of judicial review under Article 226 of the Constitution of India, whenever an order of transfer is under challenge. Courts also must be cautious and exercise restraint in interfering with such orders of administrative transfers.

10. In the present case on hand, the writ petitioner all along from the year 2012 onwards is serving within the Chennai City, more specifically, in Ice House, Mylapore, Marina, Kotturpuram, and Royapettah All Women Police Station.

11. This being the factum of the case, now, the present transfer issued in proceedings dated 05.04.2018, transferring the writ petitioner from Kotturpuram to Ennore is under challenge, this Court has no hesitation in holding that there is no reason whatsoever to intervene with the order of administrative transfer and if at all, any personal grievances exists to the writ petitioner, she is at liberty to approach the competent authorities for the purpose of redressal and her grievances. Contrarily, this Court cannot entertain a writ petition in this regard.

12. Accordingly, the writ petition is devoid of merits and stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

सतरावेक जमाने
Sub Assistant Registrar

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To

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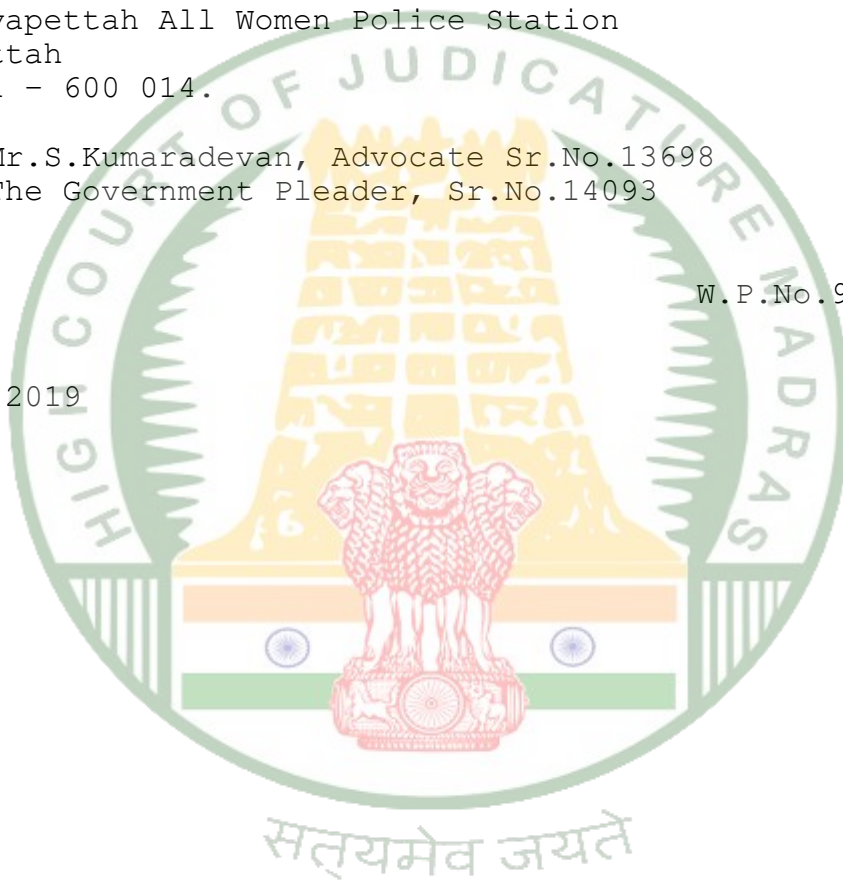
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5.The Inspector of Police
W23-Royapettah All Women Police Station
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+1 cc to Mr.S.Kumaradevan, Advocate Sr.No.13698
+1 cc to The Government Pleader, Sr.No.14093

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PM(CO)
CSL/06.03.2019



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