

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.04.2019

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

W.P.No.10875 of 2019

and

W.M.P.Nos.11316 & 11320 of 2019

M.C.S.Rammanohar

..Petitioner

vs

1. The Engineer in Chief (Water Resources Department)
and Chief Engineer(General)
Public Works Department, (WRD)
Chepauk, Chennai - 600 005
2. The Engineer in Chief (Buildings)
and Chief Engineer(General)
Public Works Department, (WRD)
Chepauk, Chennai - 600 005
3. The Superintendent Engineer,
Building Construction and Maintenance Circle,
(Medical Works)
Public Works Department,
Chepauk, Chennai - 600 005
4. The Executive Engineer,
Buildings - Construction Division-1,
(Medical Works)
Public Works Department,
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 in pursuant to the impugned order issued by the 1st respondent in proceeding order No.S3(1)/20020/2019 dated 14.02.2019 and quash the same.

For Petitioner : Mr.K.Kannan

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

O R D E R

The order of transfer issued by the 1st respondent in proceedings dated 14.02.2019, transferring the writ petitioner from the office of the Executive Engineer, Building Constructions Division-I, Medical Works, Chepauk, Chennai-5 to the office of the Executive Engineer, Gauging Division, PWD, Chennai - 113 is under challenge in the present writ petition.

2.The order impugned states that the writ petitioner was transferred on administrative grounds.

3.The learned counsel for the writ petitioner states that the order of transfer has been issued by way of punishment and the authorities forced the writ petitioner to give a complaint against Selvi.S.Sudanthira Devi and on account of the refusal on the part of the writ petitioner, he was transferred to another office.

4.It is contended that the impugned order of transfer is punitive in nature and there is no allegations against the writ petitioner at all. The writ petitioner was continuing in the office and performing his duties to the satisfaction of the superiors. While so, the impugned order of transfer has been issued unnecessarily in order to harass the writ petitioner and more specifically, by way of punishment.

5.The learned Government Advocate appearing on behalf of the respondents, based on the instructions, informed this Court that the writ petitioner was transferred from one office to another office within the Chennai City and therefore, he is no way aggrieved from and out of the transfer order. The impugned order of transfer was issued based on administrative grounds and more specifically, several complaints were received against the writ petitioner from the serving staffs, PWD contractors and immediate superiors of the petitioner. The attitude of the petitioner has caused much inconvenience to the smooth administration of the office and has often led to collapse of the official machinery and administrative set up of the Division.

6.It is further contended that in the written instructions given by the Executive Engineer-PWD, Building Construction Division 1, Chepauk, Chennai that the petitioner is being classified as a 'B' Group Government Servant, the petitioner should have exhibited utmost faith, sincerity and devotion towards his duty. The petitioner being in the charge of securities relating to contractors / Government and as the custodian of the cash chest of the office, he should have handed over the keys of the cash chest to the head of the office, whenever he takes leave exceeding reasonable periods. However,

the petitioner has not handed over the keys of the cash chest containing securities for the period of more than 45 days, which reflects his failure in discharge of his duties and lack of sincerity in devotion to duty.

7.This Court is of an opinion that administrative transfers can be issued by the competent authorities on various reasons. It is not necessary that an administrative transfer is to be issued on certain specific or particular ground. It is the duty mandatory on the part of the competent authorities to ensure smooth and efficient functioning of the public administration. In order to run the administration peacefully, administrative decisions can be taken by the authorities by posting the employees or by transferring the employees.

8.Thus, this Court is of an opinion that such administrative transfers issued from one office to another office within Chennai City would not affect the normal life of the writ petitioner. The service conditions of the writ petitioner are not violated.

9.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. 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.

10.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.

11. 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.

12. 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.

13. The Government employees are entitled to enforce their legal rights ensured under the Act and statutory Rules. However, they are not entitled to claim right based on certain facilities and concessions shown by the Government by way of Government letters/instructions. The State, being the model employer, time and again providing certain concessions/ facilities for the welfare of its employees and to encourage them, so as to run the administration in an effective manner. But those concessions/ facilities can never be a matter of legal right to the Government employees. The Constitutional Courts need not extend

any consideration based on such facilities/instructions / guidelines extended by the Government in order to motivate the Government employees for running the State administration more effectively.

14.A mere forthcoming retirement or short tenure, cannot constitute a ground to attack the administrative orders of transfers. No doubt, certain difficulties may arise in the family of the Government servants in the event of an order of administrative transfer. But the interest of administration and the public in general alone are the paramount importance and this Court cannot extend any leniency to the Government employee on such pleadings of personal grievances. It is for the Competent Authorities to consider those grievances and even in case, such grievances are not considered by the original authority, it is left open to the Government employees to approach the higher authorities or the Government in this regard, but certainly not before this Court under Article 226 of the Constitution of India.

15.This Court is of the firm opinion that administrative transfers are never to be interfered with under Article 226 of the Constitution of India. This being the consistent view taken by the Hon'ble Supreme Court of India as well as the High Courts, no further consideration or adjudication needs to be entertained in this writ petition on the grounds raised in the affidavit.

16.Thus, 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 petitions are closed.

Sd/-

सत्यमेव जयते
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Engineer in Chief (Water Resources Department)
and Chief Engineer(General)
Public Works Department, (WRD)
Chepauk, Chennai - 600 005

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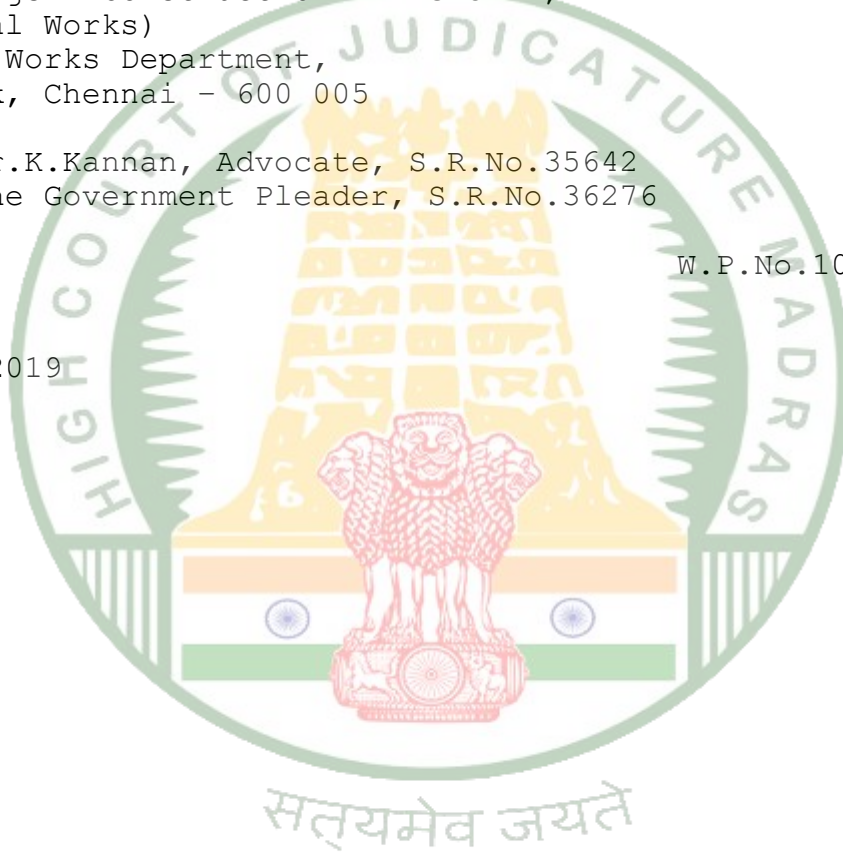
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Public Works Department,
Chepauk, Chennai - 600 005

+1cc to Mr.K.Kannan, Advocate, S.R.No.35642
+1cc to the Government Pleader, S.R.No.36276

W.P.No.10875 of 2019

KAN(CO)
CS/25/04/2019



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