

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2019

CORAM :

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

Writ Appeal No.1337 of 2019

And

CMP No.9171 of 2019

Dr.E.Rajakumar ...Appellant/Petitioner

Vs

1. The Director of Public Health
and Preventive Medicine
Teynampet
Chennai -600 006

2. The Deputy Director of Health Services
Salem -1. ...Respondents/Respondents

PRAYER:- Writ Appeal filed under Clause 15 of Letters Patent, against the Order dated 14.02.2019 passed in W.P.No.4192 of 2019

Prayer in W.P.No.4192 of 2019: - Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus to Call for the records connected with the proceedings issued in R.No.75634/E5/A1/2018 dated 12.01.2019 passed by the 1st respondent and proceedings issued in R.No.4181/E1/2018 dated 28.01.2019 (served on 04.02.2019) passed by the 2nd respondent and quash the same and consequently direct the respondents to allow the petitioner to continue in Sarakkapillayur Primary Health Centre.

For Appellant : Mr.G. Sankaran

For Respondents: Mrs.A.Srijayanthi
(Special Government Pleader)

J U D G M E N T

(Judgment of the Court was made by K.K.SASIDHARAN,J.)

The appellant, Assistant Surgeon by profession was transferred from Primary Health Centre, Sarakkapillayur, Salem Health Unit to Primary Health Centre, Chinna Mottur, Tirupathur Health Unit. The order transferring him was un-successfully challenged before the writ Court. The learned single Judge dismissed the Writ Petition with an observation that transfer is an incident of service. Feeling aggrieved by the said Order, the appellant has come up with this intra Court appeal.

2. When this appeal came up for hearing on 11.04.2019, we have made it clear that there is no question of reconsideration of the order of transfer at this point of time in view of the fact that only after serving for a period of 3 years, the appellant was shifted from Primary Health Centre, Sarakkapillayur, Salem Health Unit to Primary Health Centre, Chinna Mottur, Tirupathur Health Unit. However, the learned Counsel for the appellant contended that the transfer was punitive in nature in view of the complaint made by the appellant and the initiation of contempt proceedings against the Director of Public Health and Family Welfare Department.

3. We have directed the appellant to join service at the transferred place and thereafter to make a representation, if he is so advised. The matter was accordingly adjourned.

4. When the appeal is taken up for hearing today, the learned Counsel for the appellant on instructions submitted that the appellant joined at the transferred place on 12.04.2019. The said factual position is confirmed by the learned Special Government Pleader.

5. The appellant has now obeyed the order passed by the Deputy Director of Health Services, Salem, by joining at the transferred place on 12.04.2019. The appellant has got his own reasons, which made him to submit a representation earlier not to transfer him from Primary Health Centre, Sarakkapillayur, Salem Health Unit.

6. We give liberty to the appellant to submit a representation to the Director of Health Services, Chennai. In case, any such representation is given, the same shall be considered and disposed of by the Director of Health Service on its own merits and taking into account the difficulties expressed by the appellant. Such exercise shall be completed within a period of one month from the date of receipt of representation.

7. The intra Court Appeal is disposed of with the above direction. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

vrn/pri

Sd/-
Assistant Registrar(AD IV)

//True Copy//

Sub Assistant Registrar

To

1. The Director of Public Health
and Preventive Medicine
Teynampet
Chennai -600 006
2. The Deputy Director of Health Services
Salem -1.

+1cc to Mr.G.Sankaran, Advocate, SR.No.38002
+1cc to the Government Pleader, SR.No.38248

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Kak(29/05/2019)

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