

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.13037 of 2019

W.M.P.No.13167 of 2019

M.Loganathan

.. Petitioner

Vs.

1. The Project Director cum Member Secretary
Tamil Nadu State Aids Control Society
Egmore,
Chennai-600 008.

2. The Chief Medical Officer,
Government Hospital,
S.T.D.Clinic,
Dindigul District.

3. The Medical Superintendent,
Government Head Quarters and Hospital,
STD Clinic,
Kallakuruchi,
Villupuram District.

.. Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned communication of the 1st respondent, in Lr.No.006125/E2/BSD-ICTC/2018, dated 15.02.2019 and quash the same as illegal and consequently direct the 1st respondent to trasnfer the petiitoner in Kaniyur Primary Health Centre, Thiruppur District or at Udumalaipettai Government Hospital, where the vacancy is available, for the post of ICTC Counsellor under the Tamil Nadu State Aids Control Society or to transfer the petitioner in any other available vacant post, for the post of ICTC Counsellore, under the Tamil Nadu State Aids Control Society within Oddanchatram Taluk or Palani Taluk of Dindigul District or within Udumalaipettai Taluk, Thiruppur District.

For Petitioner : Mr.C.Kishore
For Respondents : Mr.A.N.Thambi Durai
for R1 and R2.

O R D E R

The impugned order dated 15.02.2019 rejecting the claim of the writ petitioner to consider his transfer application to his native place is under challenge in the present writ petition.

2. The writ petitioner is working as Integrated Counselling and Testing Centre Counsellor and now he is working at Government Head Quarters Hosiptal, Kallakurichi, Villupuram District.

3. The grievance of the writ petitioner is that he submitted an application seeking transfer to the respondent to transfer him to his native place or near Erode or Tiruppur.

4. The request application submitted by the writ petitioner was rejected by the respondent/Project Director cum Member Secretary. Challenging the said order, the present writ petition is filed.

5. The writ petitioner is holding a responsible post of Counsellor in the Tamil Nadu State Aids Control Society. Undoubtedly, he is eligible to submit an application for transfer. However, such transfer applications are to be considered by the competent authority and certainly not by the Constitutional Courts.

6. The High Court cannot interfere with the routine administration of the State or its organizations. Interfering with such public administration would undoubtedly, hamper the smooth functioning. It is the prerogative of the competent authorities to post a person in a place or post, for effective and efficient administration.

7. However, the order of transfer can be challenged on certain limited grounds. If the order of transfer is based on malafide grounds or without jurisdiction, or in violation of the statutory rules, then alone the order of transfer can be challenged and not otherwise.

8. Transfer can never be claimed as a matter of right. Transfer is an incidental to service, more so a condition of service. At the time of accepting appointment, an employee is accepting the policy of transfer.

9. Place or post can never be claimed as a matter of choice. Government servant is liable to be work wherever he is posted. Personal grievance could raised by the Government

Servant before the Competent authorities and not before the High Court. Competent authorities may consider the transfer grievance of the employees taking note of the administrative interest also. This being the principle to be followed, this Court is of the considered opinion that the very claim set out in the present writ petition cannot be entertained, as the writ petitioner has not established any right for the purpose of considering the relief.

11. The relief as such sought for in the present writ petition is absolutely misconceived and there is no infirmity as such in respect of the impugned order passed in the proceedings dated 15.02.2019. Thus, the writ petition is devoid of merits and stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ssb

To

1. The Project Director cum Member Secretary
Tamil Nadu State Aids Control Society
Egmore, Chennai-600 008.
2. The Chief Medical Officer,
Government Hospital,
S.T.D.Clinic, Dindigul District.
3. The Medical Superintendent,
Government Head Quarters and Hospital,
STD Clinic, Kallakuruchi,
Villupuram District.

+1 cc to The Government Pleader, Sr.No. 42547

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GJ(CO)
CSL/26.06.2019