

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 21.12.2018	Order Pronounced on : 09.01.2019
------------------------------------	-------------------------------------

CORAM:

THE HON'BLE DR. JUSTICE S.VIMALA

W.P.No.17217 of 2018
and
W.M.P.Nos.20492 and 20493 of 2018

D.Jayaprakash Narayanan Petitioner

- Vs -

1. The Commissioner of Municipal
Administration,
Chepauk, Chennai - 600 005.

2. Thiru G.Prakash, I.A.S.
Commissioner of Municipal
Administration,
Chepauk,
Chennai - 600 005.

3. The Commissioner,
Cuddalore Municipality,
Cuddalore.

4. M.N.Kalaivani
Assistant Engineer (OD),
Coimbatore Corporation.

(R4 is impleaded as per order
dated 18.07.2018)

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorari, to call for the entire records connected with the impugned order in Roc.No.5107/2018/F2 dated 05.07.2018 and to quash the same.

For Petitioner : M/s.s.Sathia Chandran

For R1 and R2 : Mr.Arvind Pandian,
Additional Advocate General
assisted by Mr.A.N.Thambidurai, SGP

For R3 : Mr.B.Anand, Standing Counsel

ORDER

This petition is filed by one D.Jeyaprakash Narayanan, a Civil Engineer, employed with the Department of Municipal Administration, to quash an order transferring him from Cuddalore Municipality to Arakkonam Municipality.

2. Ever since his appointment on compassionate ground in Udumalpet Municipality as Work Inspector with effect from 28.12.2001, he was transferred to Cuddalore Municipality in the promoted post of Draftsman (from 2005 to 2007) and subsequently transferred to Villupuram Municipality and posted as Public Work Supervisor (from 2007 to 2009). Then, he was posted at Sathyamangalam for three months and again, posted at Villupuram Municipality for five years (from 2009 to 2014) and at Namakkal Municipality, where he served from 2014 to 2018. Subsequently, on promotion as Junior Engineer, he was posted at Cuddalore Municipality. Thus, in 19 years of service, it seems that the petitioner saw himself transferred seven times.

3. The petitioner in his narration of facts has clearly pointed out how an order for his sudden transfer was made from Cuddalore Municipality to Arakkonam Municipality ostensibly on administrative grounds, but, in reality, presumably on grounds of wrath, he incurred from a local politician alleged to be close to a Minister in the State Government.

4. Per contra, it is submitted on behalf of the respondents that the writ petition is misconceived one, that the respondent is unaware of any encounter that the petitioner had with a local politician named Kandhan and also ignorant about threat made by the said local politician. Towards justifying the prerogative of the State/Employer, the first respondent herein has cited the relevant provisions of Tamil Nadu Municipal Service Rules 1970.

5. The learned Additional Advocate General pointed out that unnecessarily the name of the Minister has been involved and the allegation has no basis. As rightly contended, the newspaper report do not give an indication that there could have been the involvement of Minister. However, the fact that the person with whom there was a scuffle had run away from the hospital and may be on account of public agitation in order to avoid further aggravation, the transfer should have been effected. But, that kind of transfer should not be permitted as it is likely to demoralize the honest employees.

6. The Government as an ideal employer has a bounden duty to strictly safeguard the interest of its employees against the machinations of politicians and the scuffle narrated by the

petitioner. The public servants need to discharge their functions without fear or favour and they need not toe the line drawn by the politicians. In the instant case, it has been explicitly exposed that all was not well and that enough hints are given about the alleged meddling of the affairs of the Cuddalore Municipality, especially, the public works and how the influential politicians dare to dictate terms to the Junior Engineers in the Municipality in the manner of their functioning much to the detriment of the public interest. The fact that the petitioner is served with the transfer order after settling down at his latest place of posting, after barely about four months, is an indicator of the long arms of political clout possessed by one Kandhan, whose attempt to meddle with the inspection of water works and other development works on behalf of the contractor concerned. Separation of politics and administration is an ideal though absent in the spot of the world shall have to be ensured and that public interest shall be given primacy over the private interest.

7. Had this transfer is allowed to take effect, it would embolden the other political cadre and influential local level politicians of all hues to seek the transfer of unfavourable and upright Government Officials from their pocket boroughs and to see that they are posted in somewhere else. This would demoralize the Government servants and may inspire them to amend their ways in such a way of pleasing each and every one whoever come under the banner of some political party. If the Government machinery has to serve well the people, their functioning and official routines are to be insulated against the extraneous influences.

8. In the backdrop of above said discussion, the impugned order in Roc.No.5107/2018/F2 dated 05.07.2018 issued by the 2nd respondent herein is quashed and the writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

सत्यमेव जयते

WEB COPY

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

ogy

To

1. The Commissioner of Municipal
Administration,
Chepauk,
Chennai - 600 005.

2. Thiru G.Prakash, I.A.S.
Commissioner of Municipal
Administration,
Chepauk,
Chennai - 600 005.

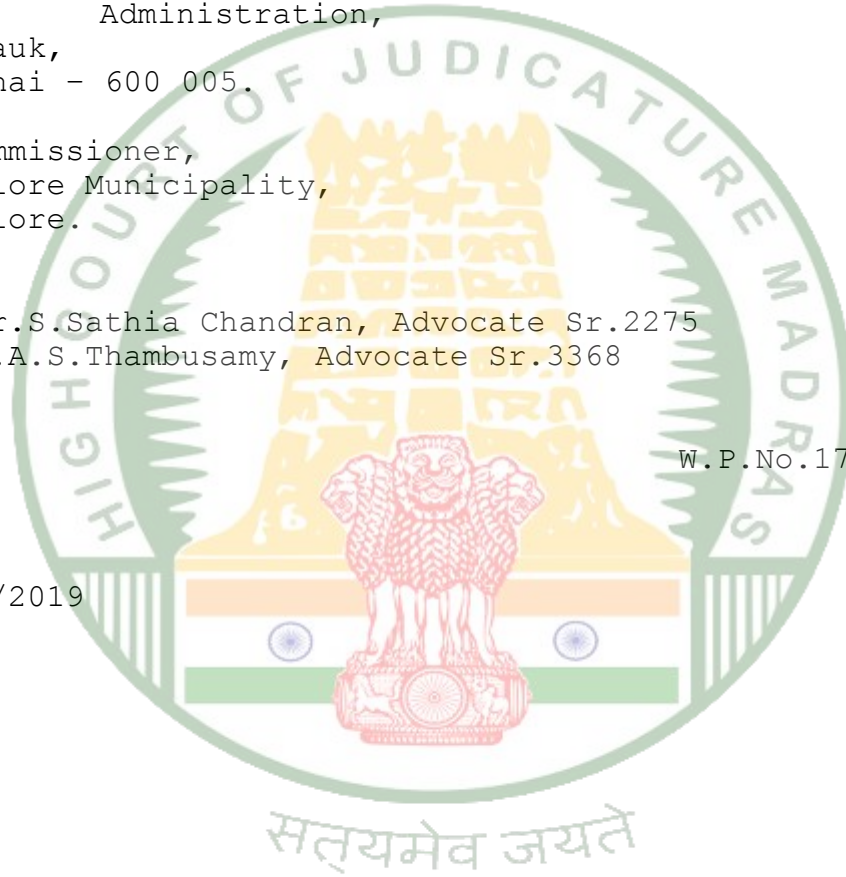
3. The Commissioner,
Cuddalore Municipality,
Cuddalore.

+1cc to Mr.S.Sathia Chandran, Advocate Sr.2275

+1cc to M.A.S.Thambusamy, Advocate Sr.3368

W.P.No.17217 of 2018

srg 31/01/2019



WEB COPY