

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2019

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THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.24948 of 2018  
and  
WMP.Nos.28995 and 28996 of 2018

J.Demel Fernando

...Petitioner

Vs

1. Tamil Nadu Civil Supplies Corporation Ltd,  
rep. by its Chairman & Managing Director,  
No.42, Thambusamy street,  
Kilpauk, Chennai - 600 010.

2. The Regional Manager,  
Tamil Nadu Civil Supplies Corporation Ltd,  
Cuddalore Region, Nellikuppam Road,  
Cuddalore.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ or order or orders or direction particularly in the nature of Writ of Certiorari, calling for the entire records relating to the impugned order of Transfer issued by the 1st respondent vide Proc.No.AE5/31553/2018(1) dated 05.09.2018 (served on 17.09.2018) and quash the same.

For Petitioner :Mr.K.Premkumar

For Respondents : Mr.L.P.Shanmugasundaram,  
Spl.Govt. Pleader (Co-Op)  
for R1 & R2

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O R D E R

The order of transfer and posting issued by the respondent in proceeding dated 05.09.2018, transferring the writ petitioner from Cuddalore region to Chennai (North) region, on administrative grounds is under challenge in the present writ petition.

2. The learned counsel for the writ petitioner made a submission that, the order of transfer impugned is punitive in nature. Thus, the same is liable to be scrapped. The report submitted by the vigilance team dated 25.07.2018 states that, certain irregularities were found and recommended for transfer of the writ petitioner to some other place. Relying on the said communication, the learned counsel for the writ petitioner states that, the writ petitioners were transferred based on the complaint as well as on the investigation conducted by the vigilance team. Therefore, the transfer is to be construed as punitive in nature.

3. This Court is of the considered opinion that, if at all certain irregularities are identified by the vigilance team or by the inspection Authorities, immediate transfer is also on administrative exigency warranting peaceful and efficient public administration. Some times, in lieu of suspension also an employee can be transferred. There may be several occasions where an administrative transfer can be issued. It is not necessary an administrative transfer is to be issued only on particular reason or on a specific ground.

4. The word administrative transfers are to be interpreted so as to cover various circumstances, arising on account of the administrative exigencies and the very purpose and object is to ensure effective and efficient public administration. If the Competent Authority of the particular area is of an opinion that, the further continuance of an employee is not preferable on account of certain circumstances or frequent complaints or otherwise, then the administrative decision shall be taken to transfer such employees.

5. Therefore, the instances and circumstances may be one or several, however, the object is to ensure the public administration must run peacefully. Though such a power of transfer has been vested with the Competent Authority, the Competent Authority must exercise the same very judiciously and in the interest of public administration. If at all, the power of transfer is abused or misused by the Authorities, then alone the Court can interfere with such orders.

6. In the present case, admittedly, there is an inspection by the vigilance team. Vigilance team found certain irregularities, and therefore, further continuance of the writ petitioner in the particular place may not be preferable in the interest of public administration. This apart, in the event of any malafide or extreneous consideration, then the Courts can interfere with the order of administrative transfer and not otherwise.

7. Post or Place can never be claimed as a choice by the Public Servants. Public servants, who all are performing noble duties and responsibilities are bound to serve wherever they are posted in the interest of the Public at large. Right to life is now an integral part of Article 21 of the Constitution of India. The Doctors who performing the noble duty, cannot refuse to serve in the place and post provided by the Government in the interest of the Public Administration and in the interest of the Government Hospitals, which all are established for the purpose of providing treatment to the poor people of this Great Nation.

8. Transfer is an incidental to service, more so, a condition of service. The only rule to be followed is that while effecting the transfer and postings, the service benefits or the conditions are to be protected. The benefits already guaranteed under the Service Rules cannot be taken away by effecting transfers to the public servants. However, transfer and postings on administrative ground cannot be interfered with by the High Courts in a routine manner. High Court cannot interfere with the routine administration of the State Departments, Organisations and Undertakings. In the event of any such interferences by the Constitutional Courts, smooth administration will certainly be affected and therefore, the High Courts must exercise restraint in interfering with such administrative transfers and the judicial review against the order of transfers are certainly limited.

9. An order of transfer can be interfered with, by the Constitutional Courts, only if the same is issued by an incompetent authority having no jurisdiction or competency or if an allegation of mala fides are raised or the same is in violation of the Statutory Rules in force. Even in case of an allegation of mala fides, the authority against whom such an allegation is raised, is to be impleaded as a party respondent in his personal capacity in the writ proceedings. No writ proceedings can be entertained against the administrative transfers.

10. The learned Special Government Pleader appearing on behalf of the respondent states that, the writ petitioner was relieved from the post and he had already joined in the transferred place. This being the factum, the grounds raised in the present writ petition are insufficient to consider the

relief as such sought for in the present writ petition. Accordingly, the writ petition stand dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Pkn

To

1. The Chairman & Managing Director,  
Tamil Nadu Civil Supplies Corporation Ltd,  
No.42, Thambusamy street,  
Kilpauk, Chennai - 600 010.
2. The Regional Manager,  
Tamil Nadu Civil Supplies Corporation Ltd,  
Cuddalore Region, Nellikuppam Road,  
Cuddalore.

+1cc to Mr.L.P.Shanmugasundaram, Advocate Sr.27203  
+1cc to the Government Pleader Sr.27483

W.P.No. 24948 of 2018

mr[co]  
srg 9/5/2019

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