

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP.No.17794 of 2018
and
WMP.No.24689 of 2018

V.Ramesh

...Petitioner

Vs.

The Assistant General Manager &
Deputy Zonal Head,
UCO Bank, Zonal Office,
Vijay Towers, No.22,
Father Randy Street,
Coimbatore-641 002.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondent pertaining to his proceedings bearing No. UCO/ZOCBE/HRM/TR/2018-19/270 dated 05.07.2018, transferring the petitioner from K.K.Nagar Branch, Madurai to Sivagangai and quash the same insofar as the petitioner is concerned and consequently direct the respondent to retain the petitioner at K.K.Nagar Branch, Madurai atleast till the end of the following academic year.

For Petitioner : Mr.T.K.Kulasekaran

For Respondent : Mr.Srinath Sridevan

O R D E R

The order of transfer, transferring the petitioner from Madurai to Sivagangai of UCO Bank in proceedings dated 05.07.2018 is under challenge in the present writ petition.

2. The learned counsel for the writ petitioner states that the impugned order of transfer is punitive in nature and the respondent had issued the same with malafide intention. Thus, the order of transfer is liable to be scrapped.

3. The learned counsel for the writ petitioner further stated that the writ petitioner was appointed as an officer of

the Bank in the year 1990 and he is working with unblemished record of service. Earlier, he filed writ petition challenging the order of transfer from Chennai to Madurai and the matter went upto the Hon'ble Division Bench and costs of Rs.1,00,000/- was imposed on the Bank and therefore the officials have taken a personal vengeance against the writ petitioner and issued the impugned transfer order, transferring the writ petitioner from Madurai to Sivagangai. It is further contended that the impugned order of transfer has been issued even before the expiry of three years of period and therefore it is contrary to the transfer policy of the respondent bank.

4. The learned counsel for the respondent, relying on the counter statement, states that as per the transfer policy of the respondent bank, the officers of the bank are liable to be transferred to any office of its branches in India.

5. Transfer is an incident to service. The writ petitioner has been transferred from K.K.Nagar Madurai to Sivagangai Branch. The order of transfer was issued on administrative grounds and there is no malafide intention as alleged by the writ petitioner.

6. In respect of the allegations raised by the writ petitioner regarding the earlier ground of writ petition and writ appeal, it is stated by the respondent that the affidavit filed by the writ petitioner is not genuine in relation to the case of the transfer. The Bank had rejected the community certificate produced by the writ petitioner and actions had been initiated against him and later when it was found that the certificate was genuine, and upon the directions given by the Hon'ble High Court, the writ petitioner was provided with an employment. However, the issue earlier adjudicated were no way connected with the order of transfer now issued transfer from Madurai to Sivagangai. In order to adjudicate the order of transfer it cannot be said that the impugned order of transfer has been issued on account of the earlier litigations. The earlier litigations were unconnected with the order of transfer now issued on administrative grounds and further the writ petitioner is now working as Senior Manager and therefore, he is liable to be transferred in any one of the branches all over India. It is further stated in paragraph No.5 of the counter that the writ petitioner is in the habit of approaching the Hon'ble High Court as and when the transfer order issued to him and he will assail the same for one reason or other. Earlier when the respondent was transferred from Theni to Dindigul he filed a writ petition challenging the transfer order and consequently, to direct this Bank to retain him either in Theni where he was working or transfer him to Madurai Branch except Dindigul Branch. On the dismissal of the above writ petition,

the writ petitioner filed a W.A.No.1611 of 2011. When the writ appeal came up for final hearing, it was submitted on behalf of the Bank that the writ petitioner's request for transfer to Madurai will be considered in accordance with the regulation followed by the Bank and accordingly, the request of the writ petitioner was considered by the Bank and he was transferred to K.K.Nagar Branch at Madurai on 19.10.2015. The transfer of the writ petitioner was not premature and all the officers are transferred in annual transfer exercise.

7. Accordingly, now the writ petitioner has been transferred to Sivagangai Branch as a Senior Manager (Branch Head) after more than 2 ½ years. In view of the stay obtained by the writ petitioner, the bank employee one Ms.N.Devi, Senior Manager working in Navinipatti branch office, who has been transferred to the writ petitioner's place at K.K.Nagar Branch at Madurai, could not discharge her duties, as a result of which the bank work is being affected both at the Navinipatti Branch and at K.K.Nagar Branch, Madurai.

8. This Court is of the considered opinion that the transfer is an incident to service, more so a condition of service. The writ petitioner is working in the rank of Senior Manager at a Nationalised Bank. Bank being a financial institution has got higher responsibility and accountability. If such a transfer from Madurai to Sivagangai, particularly when the distance between these two places is hardly 70 Kilometres, it cannot be a ground for assailing the order of transfer and when the transfer policy of the respondent Bank states that the writ petitioner as Senior Manager is liable to be transferred to any office across the country.

9. This Court is of the considered opinion that there is no reason to interfere with an order of transfer. No writ can be entertained against the order of transfer in a routine manner and judicial review in this regard is certainly limited. The order of transfer can be questioned if the same has been issued by an incompetent authority having no jurisdiction or an allegation of mala fides are raised or in the same is in violation of the statutory rules in force. Even in case of raising allegation of mala fides, the authorities against whom such an allegation is raised, to be impleaded as a party respondent in the writ proceedings in his personal capacity. In the absence of any of these legal grounds, no writ proceedings can be entertained against an order of transfer.

10. Though in the case on hand the writ petitioner states that the order was issued on malafide grounds, no such official has been impleaded as party respondents in his personal

capacity. Not only the allegations are substantial in nature so as to arrive at a conclusion that the order impugned was issued with personal vengeance, simply because the writ petitioner filed earlier cases and when it is not known as to whether he was totally exempted from the transfer, interference of personal vengeance cannot be drawn. As the writ petitioner is working in the rank of Senior Manager, he has to work wherever he is posted, in the interest of the institution and not effect the public services to be provided as per the banking regulations.

11. Transfers are the administrative prerogative of the organisation. The High Courts would not interfere with such administrative transfers in a routine manner as the same will hamper the peaceful administration of the organization. The High Court would not interfere with the routine administration of such Nationalized Banks or institutions. It is for the authorities competent to decide what would be best for the efficient administration. In the event of frequent interference and the same would affect the efficient public administration. Under these circumstances, the grounds raised in the present writ petition are insufficient to interfere with the order of administrative transfer. Though the learned counsel for the writ petitioner states that the writ petitioner may be allowed to continue till the end of the Academic year, this Court having gone through the affidavit filed in support of the writ petition, where there is no averment stating that his children are studying and are in the process of appearing the public examinations or otherwise, and in the absence of any such averments, such consideration is also unnecessary and the same will encourage such senior officials to get an order on that ground one way or other.

12. The learned counsel for the writ petitioner drawn the attention of this Court regarding the transfer policy officer issued by the respondent Bank. The learned counsel relied clause 25.11 which states that "Normally an officer will be allowed to complete the tenure of three years. However, decision on premature shifting of officers upto Scale-III within a Zone shall be made by Zonal Head". In the present case on hand, the writ petitioner has been transferred within a zone by the Zonal Head and such a transfer is permissible on the administrative grounds. Even otherwise also, such administrative decisions are taken by the Zonal Head on various reasons and such reasons cannot be interfered with, unless there is a substantial allegations on malafides. In the present case on hand even as per the transfer policy, a premature decision can be taken for shifting of Officials within the Zone. The writ petitioner has now been transferred within the Zone. Further, he has already completed more than 2 ½ years of service and this

being the factum, there is no ground to consider the case of the writ petitioner.

13. Thus, the writ petitioner has not established any acceptable legal ground for the purpose of interfering with an order of transfer.

14. Accordingly, the present writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Assistant General Manager &
Deputy Zonal Head,
UCO Bank, Zonal Office,
Vijay Towers, No.22,
Father Randy Street,
Coimbatore-641 002.

+lcc to Mr.Srinath Sridevan, Advocate Sr.29352
+lcc to Mr.T.K.Kulasekaran, Advocate Sr.28311

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