

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.09.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No. 26543 of 2019
and
W.M.P.No. 25915 of 2019

K.B.Latha

..Petitioner

Vs

1. The Assistant Collector,
Coonoor,
Niligiri District.

2. The District Revenue Officer,
Nilligiri District.

3. The Revenue Divisional Officer,
Udhagamandalam.

4. The Tahsildar,
Kotagiri Taluk Office,
Kotagiri, Nilligiri District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ order or direction in the nature of writ of Certiorarified Mandamus, to call for the records relating to the transfer order issued by the second respondent in Na.Ka.No.A1/12396/2017 Dated 07.08.2019, transferring the petitioner from Kotagiri 1 Village, Kotagiri Division to Kunda Circle, Udhagamandalam Revenue Division and to quash the same and consequently issue direction to the respondents to allow the petitioner to serve in the Kotagiri 1 Village, Kotagiri Division.

For Petitioner : Mr.T.Dharani

For Respondents : Mr.R.S.Selvam
Government Advocate.

O R D E R

The prayer sought for in this Writ Petition is for issuance of a Writ of Certiorarified Mandamus, to call for the records

relating to the transfer order issued by the second respondent in Na.Ka.No.A1/12396/2017 Dated 07.08.2019, transferring the petitioner from Kotagiri 1 Village, Kotagiri Division to Kunda Circle, Udhagamandalam Revenue Division and to quash the same and consequently issue a direction to the respondents to allow the petitioner to serve in the Kotagiri 1 Village, Kotagiri Division.

2. The case of the petitioner is that the petitioner has challenged the transfer order issued by the second respondent, transferring the petitioner from Kotagiri Division to Kunda Circle, Udhagamandalam Revenue Division.

3. The learned counsel appearing for the petitioner would submit that the petitioner was once again subjected to another transfer by the 2nd respondent vide proceedings dated 07.08.2019, transferring the petitioner from Kotagiri 1 Village, Kotagiri Division to Kunda Circle, Udhagamandalam Revenue Division and the transfer was made within one year and 1 month from the date of the earlier transfer, in violation of the transfer policy of the Government of Tamil Nadu and in violation of the Rule 38(b) (iii) (9) of Tamil Nadu Ministerial Service Rules. Since the petitioner was subjected to transfer within 1 year and one month from the date of joining in the Kotagiri 1 Village, Kotagiri Division, she was constrained to submit representation to the official respondents to withhold the transfer and allow her to continue in the Kotagiri 1 Village, Kotagiri Division, however, respondents have not considered the said representation till date.

4. The learned counsel appearing for the petitioner submitted that the petitioner is in the post of 'Village Administrative Officer' and the second respondent have no jurisdiction to transfer the petitioner from the present division to another division. The 'Village Administrative Officer' can be transferred to any place within the division by the Revenue Divisional Officer or within the district by the District Collector. In the present case, the transfer has taken place within the district, however, the District Revenue Officer has passed the order. Therefore, he would contend that the order passed by the second respondent dated 07.08.2019 is liable to be quashed.

5. The issue involved is whether the second respondent has power to transfer the petitioner within the District. Rule 9 of the Annexure-X (Referred to in rule 38(b)(iii)) Appointment, Training and conditions of service of directly recruited Village Administrative Officers, is as follows;

"9. Every person appointed to the post shall be liable to be transferred to any place;

i) Within the division by the Revenue Divisional Officer;

ii) Within the District by the District Collector;
and

iii) On administrative reasons, outside the district by the Commissioner of Revenue Administration."

6. On perusal of the provisions it is clear that transfer if any, within the division, the Revenue Divisional Officer has power to transfer. Since in the present case, the transfer is within the District, the District Collector alone has got power to transfer. The Revenue Divisional Officer and the District Revenue Officer passed order instead of the District Collector, as against which, the present writ petition is filed. The order passed by the second respondent herein is an unsustainable one and therefore, this Court is inclined to set aside the order and liberty is granted to the concerned District Collector to pass appropriate orders.

7. Accordingly, the order of the second respondent dated 07.08.2019 is quashed and the writ petition stands allowed with the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (Insp.cell)

//True copy//

सत्यमेव जयते
Sub Assistant Registrar

kmm

To

1. The Assistant Collector,
Coonoor,
Niligiri District.

2. The District Revenue Officer,
Niligiri District.

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3. The Revenue Divisional Officer,
Udhagamandalam.

4. The Tahsildar,
Kotagiri Taluk Office,
Kotagiri, Nilligiri District.

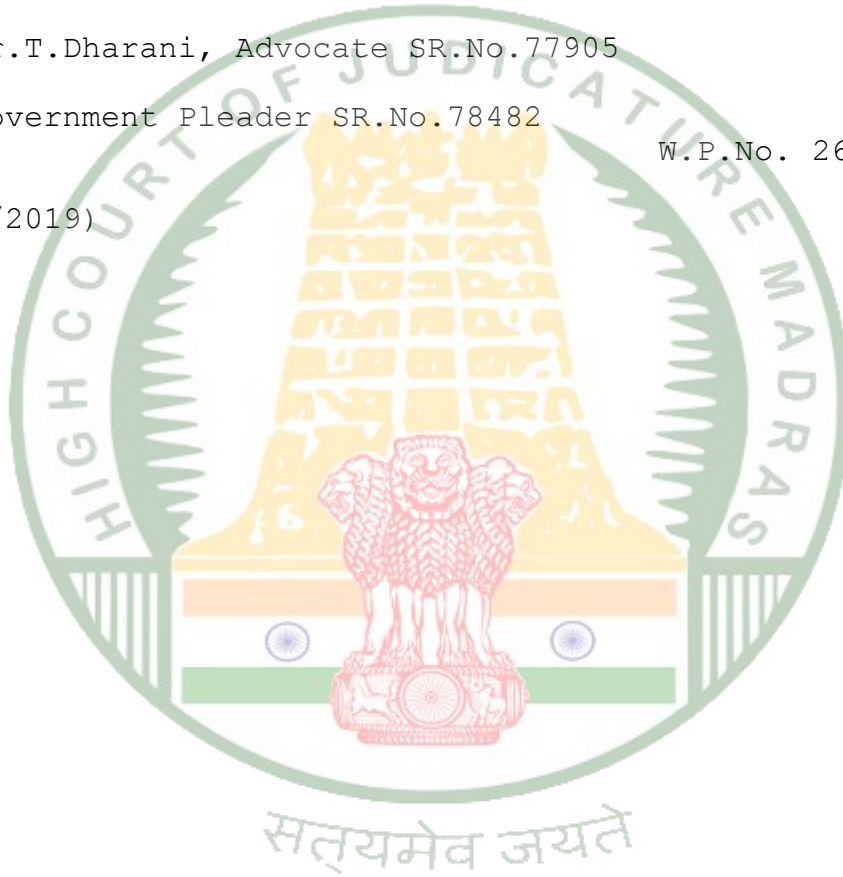
5. The District Collector,
Nilgiri District,
Udhagamandalam (TN)
Pin Code 643 001

+1cc to Mr.T.Dharani, Advocate SR.No.77905

+1cc to Government Pleader SR.No.78482

W.P.No. 26543 of 2019

RK(CO)
GMY(11/10/2019)



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