

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.04.2019

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.25950 of 2018
and
W.M.P.No.30162 of 2018

R.Sadhasivam

..Petitioner

..Vs..

1.The State of Tamil Nadu,
Rep.by Principal Secretary to Government,
Agriculture Department, Secretariat,
Fort Saint George,
Chennai - 600 009.

2.Joint Director,
Agriculture Department,
Thiruvannamalai.

3.The Assistant Director,
Agriculture Department,
Cheyyar, Thiruvannamalai District.

4.The Assistant Director,
Agriculture Department,
Arani, Thiruvannamalai District.

.. Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the proceedings No.A2/10821/2018 dated 25.07.2008 passed by the 2nd respondent herein and quash the same and consequently direct the 2nd respondent herein to relieve the petitioner immediately from the post of Depot Manager, Grade-I in Cheyyar Station so as to enable the petitioner to join the post of Depot Manager, Grade - I in Arani Station vide proceedings No.A2/10821/2018, dated 18.07.2018 passed by the 2nd respondent herein.

For Petitioner : Mr.M.Kempraj

For Respondents : Mr.D.Suriyanarayanan
Additional Government Pleader

O R D E R

The order dated 25.07.2018, issued by the second respondent stating that the writ petitioner should not be relieved from service pursuant to the first transfer order dated 18.07.2018, transferring the writ petitioner from Cheyyar Station to Arani Station, until further orders are issued in this regard.

2. The learned counsel for the writ petitioner states that the transfer order was issued at the first instance by the second respondent transferring the writ petitioner from Cheyyar to Arani, in proceedings dated 18.07.2018. The said order was also passed on administrative grounds. However, within one week the impugned order has been passed in proceedings dated 25.07.2018 stating that the employees transferred in proceedings dated 18.07.2018, need not be relieved from service on account of administrative grounds both the transfer order and withholding of his relieving order are passed on administrative grounds.

3. The counter affidavit filed by the second respondent states as follows:

"It is submissively brought to the kind appraisal of the Honorable High Court about the brief history of the case before denying the averments made in the writ petition. The petitioner is working as Depot Manager (Grade.1) in the Agricultural Extension Centre, Cheyyar of Tiruvannamalai District from 11.07.2016. As per Proceedings No.A2/10821/2018, Dated 18.07.2018 of this respondent, the petitioner was transferred to Agricultural Extension Centre, Arani of Tiruvannamalai District. The distance between these two stations is merely 33 kilometers. It is submitted that on receipt of the above transfer order, the Assistant Director of Agriculture, Cheyyar, Who is the immediate controlling officer of the petitioner, had informed the 2nd respondent about the Local Fund audit being taken up at Cheyyar Depot and Tirumani sub-depot for the years 2013-14, 2014-15 and 2015-16 and requested the presence of the petitioner to complete the audit smoothly in his Letter No.1/2018, Dated 23.07.2018. Considering the necessity and administrative exigencies, the 2nd respondent herein have immediately withheld the date of relief of the petitioner from Cheyyar Vide Proceeding No.A2/10821/2018, dated 25.07.2018. It is submitted that it is made clear here that the transfer order issued to the petitioner is not canceled till date as averred by the petitioner

throughout the affidavit. It is submitted that the date of relief alone is temporarily suspended due to administrative necessities. Hence it is submitted that the writ petition deserves no merit and hence liable for summary rejection."

4. Undoubtedly, the original transfer order was passed on administrative grounds so also the impugned order also issued on administrative grounds not to relieve the writ petitioner till further orders are passed in this regard.

5. High Court would not interfere on such administrative decisions taken in the matter of administrative transfers. High Court cannot interfere with the routine administration of State Department. It is for the Authorities Competent to take a decision on the interest of public administration. Thus, an order of transfer or with-holding of relieving order can be challenged only on limited grounds. On account of certain administrative exigencies, the writ petitioner was retained in the same post as Junior Assistant in Sub-Depot, Usoor.

6. This being the reason stated, this Court cannot interfere with the impugned order as the transfer itself is from Cheyyar to Arani which is also situated nearby .

7. Administrative transfers are issued on various circumstances and on various grounds. For instance, continuance of certain public servants in a particular post, may not be conducive for the peaceful administration or their further continuance may cause certain troubles to the people, who all are the beneficiaries in the Department. There are various such administrative aspects, which all are the reasons for the administrative transfers. Courts would not be in a position to scrutinize or conduct an enquiry in respect of those reasons for such issuance of the administrative transfers.

8. Administrative transfers are the prerogative of the Department concerned and the competent authorities are the best persons to assess and act accordingly. However, those competent authorities should act in the interest of public and in the event of any illegality or some personal motive, then alone, the employee can approach the Court of law for appropriate remedy. In other words, if an order of transfer is issued with a mala fide intention or in violation of the statutory rules, then a writ petition can be entertained. Even in such cases, the allegation of mala fide intention must be substantiated in the writ proceedings and the official concerned must be impleaded as party respondents in the writ proceedings. In the absence of any such legal ground, routine administrative transfers can never be interfered with by the Constitutional Courts. Transfer

is an incidental to service, more so, a condition of service. Public servant is liable to work wherever he is posted in the interest of public administration. On accepting the offer of appointment, a person is agreeing for the conditions of service and transfer being incidental, he must be in a position to work, wherever he is posted.

9. Place or post can never be claimed as a matter of choice by the public servants. All public servants are duty bound to perform their duties diligently and with utmost care and devotion. This being the basic principles to be followed and erosion in this regard can never be tolerated either by the officials or by the Courts. High Court cannot interfere with the routine administration of the State or its organization. In the event of such routine interference in administration, more specifically, in transfer cases, the very discipline and the functioning of the administration would be paralyzed. Thus, the judicial review of administrative transfers must be exercised with restraint and only on exceptional circumstances, such orders of transfers can be interfered with by the High Courts and not otherwise. This being the scope of the judicial review of administrative transfers issued by the competent authorities, this Court is of an undoubted opinion that the writ petitioner has not established any such strong acceptable ground for the purpose of interference in the order of transfer.

10. The Government employees are entitled to enforce their legal rights ensured under the Act and statutory Rules. However, they are not entitled to claim right based on certain facilities and concessions shown by the Government by way of Government letters/instructions. The State, being the model employer, time and again providing certain concessions/ facilities for the welfare of its employees and to encourage them, so as to run the administration in an effective manner. But those concessions/ facilities can never be a matter of legal right to the Government employees. The Constitutional Courts need not extend any consideration based on such facilities/instructions/guidelines extended by the Government in order to motivate the Government employees for running the State administration more effectively.

11. This Court is of the firm opinion that administrative transfers are never to be interfered with under Article 226 of the Constitution of India. This being the consistent view taken by the Hon'ble Supreme Court of India as well as the High Courts, no further consideration or adjudication needs to be entertained in this writ petition on the grounds raised in the affidavit.

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

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Principal Secretary to Government,
State of Tamil Nadu,
Agriculture Department, Secretariat,
Fort Saint George,
Chennai - 600 009.
- 2.Joint Director,
Agriculture Department,
Thiruvannamalai.
- 3.The Assistant Director,
Agriculture Department,
Cheyyar, Thiruvannamalai District.
- 4.The Assistant Director,
Agriculture Department,
Arani, Thiruvannamalai District.

+1cc to Mr.M.Kempuraj, Advocate sr.37023

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and

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nr 29/05/2019

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