

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 30-04-2019
CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.29226 of 2018
And
W.M.P.No.34152 of 2018

Mr.S.Kannan

.. Petitioner

..Vs..

- 1.Principal Chief Conservator of Forests,
(Head of Forest Force),
Office of the Principal Chief Conservator
of Forests (Head of Forest Force),
Panagal Maaligai,
Saidapet,
Chennai-600 015.
- 2.Chief Conservator of Forests,
Coimbatore Circle,
Coimbatore.
- 3.The Superintendent,
District Forest Office,
Coimbatore Division,
Coimbatore.
- 4.The District Forest Officer,
Coimbatore Division.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order dated 31.8.2018 issued by the first respondent in Ref.No.AB1/666/2017 and consequential order dated 31.8.2018 issued by the third and fourth respondents in Endt.No.E1/6577/2018 and quash the same and consequential direct the respondents to permit the petitioner to work at the Madukkarai Range, Coimbatore Division.

For Petitioner : Mr.L.Mouli

For Respondents : Mr.Thangavadhana Balakrishnan,
Additional Government Pleader
(Forests).

O R D E R

The order of transfer dated 31.8.2018, transferring the writ petitioner from Coimbatore Division to Vellore Circle on administrative grounds, is under challenge in the present writ petition.

2. The learned counsel for the writ petitioner states that the transfer order is silent about the posting in which the writ petitioner is transferred. Thus, the order of transfer is ambiguous and liable to be set aside. It is further stated that the order of transfer was issued during the middle of the academic year which would cause inconvenience to the family of the writ petitioner.

3. This apart, it is stated that the complaint against the writ petitioner given by another woman employee is false and frivolous.

4. This Court is of the considered opinion that the administrative transfers are issued on various grounds and the writ petitioner is working as a Forester, which is a responsible position. In the event of certain allegations by the woman employee at Coimbatore Division, the authorities competent are bound to initiate action to transfer the employee in the interest of public administration. Further, it may not be conducive by allowing the employee, against whom such a complaint is made, to work in the same Station. This apart, transfers are issued on various other grounds also.

5. This Court is of an opinion that transfers can be issued on various grounds. On a perusal of the impugned transfer order, it is stated that the writ petitioner is transferred on administrative ground and in the interest of administration. Transfers are imminent in respect of public servants, whenever there is a wide complaint against the employee is made known to the competent authorities. In certain circumstances, there may not be an evidence to prosecute the employee or to initiate departmental disciplinary proceedings. However, the competent authorities may of the opinion that further continuance of a public servant in a particular place would cause inconvenience as well as cause some difficult situation for the peaceful

functioning of the public administration. Thus, in those circumstances, transfers alone are the remedies in the interest of public administration. Therefore, it is not necessary that there must be a transfer only after conducting an enquiry or initiation of disciplinary proceedings.

6. 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.

7. 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. सत्यमेव जयते

8. 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.

9. 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.

10. In view of the fact that the writ petitioner has been transferred on administrative grounds and further the learned Additional Government Pleader, appearing on behalf of the respondents, states that necessary posting orders will be issued by the Chief Conservator of Forests, Vellore, the writ petitioner should approach the Chief Conservator of Forests for necessary posting orders. Thus, the ambiguity, as stated, is not correct and the writ petitioner has to receive the posting orders from the Chief Conservator of Forests, Vellore.

11. This being the factum, the writ petitioner has not established any acceptable grounds for the purpose of considering the relief as such sought for in the present writ petition.

12. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Svn

To

1.Principal Chief Conservator of Forests,
(Head of Forest Force),
Office of the Principal Chief Conservator
of Forests (Head of Forest Force),
Panagal Maaligai,
Saidapet,
Chennai-600 015.

2.Chief Conservator of Forests,
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Coimbatore.

3.The Superintendent,
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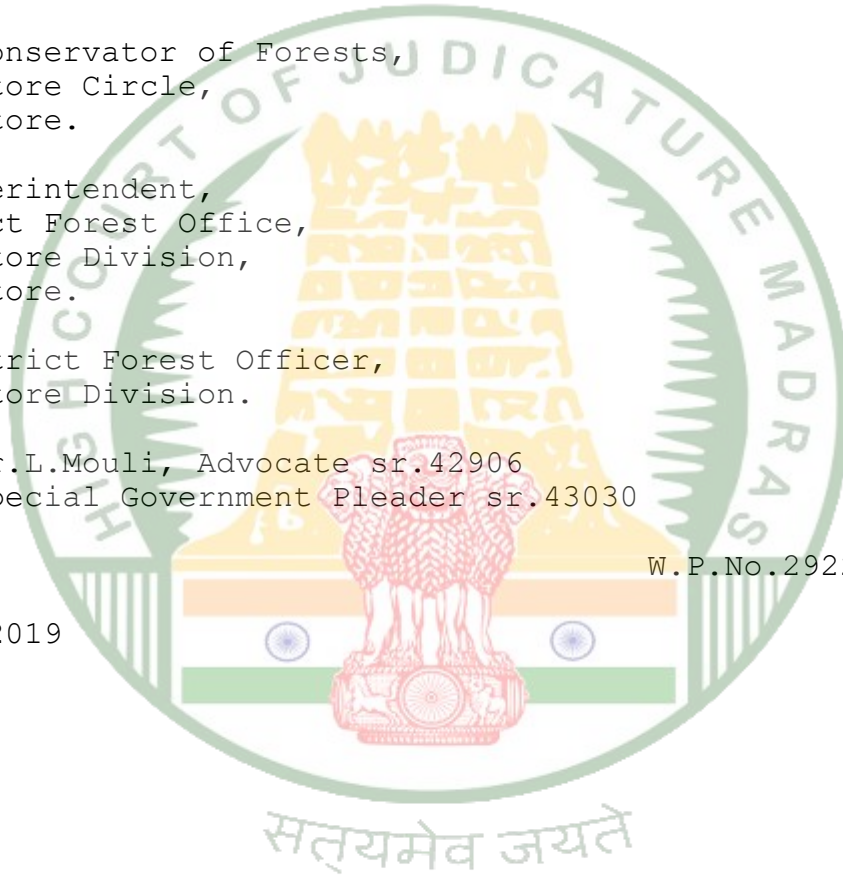
4.The District Forest Officer,
Coimbatore Division.

+1cc to Mr.L.Mouli, Advocate sr.42906

+1cc to Special Government Pleader sr.43030

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