

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05-04-2019

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.30868 of 2018
And
W.M.P.No.36023 of 2018

X.Charles Ravi

.. Petitioner

Vs.

1.The Principal Chief Conservator of Forests,
(Head of Forest Force),
Panagal Building,
Saidapet,
Chennai-15.

2.The Conservator of Forest,
Trichy Division,
Trichy District.

3.The District Forest Officer,
O/o.District Forest Office,
Court Campus,
Thiruchirapalli Division,
Trichy-01.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the third respondent made in S.O.No.04/PA1/18 dated 27.10.2018 and quash the same and consequently direct the respondent to allow the petitioner to continue as a Forest Guard (Wireless Technician) at Roving Check Post Range, Thiruchirapalli.

For Petitioner : Mrs.Selvi George

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

O R D E R

The order of an administrative transfer issued by the third respondent in proceedings dated 27.10.2018, transferring the writ petitioner from Tiruchirappalli to Injalayur, is under challenge in the present writ petition.

2. The learned counsel for the writ petitioner states that the writ petitioner is working as Forest Guard at Tiruchirappalli.

3. The grievance of the writ petitioner is that he is taking certain treatments at Tiruchirappalli and his transfer to Thuraiyur will affect his health conditions.

4. The learned Additional Government Pleader, appearing on behalf of the respondents, states that the distance between the Tiruchirappalli and Thuraiyur is about 46 kilometers and the writ petitioner was transferred on administrative grounds.

5. This Court is of the considered opinion that in respect of certain personal grievance, the writ petitioner has to approach the competent authorities and as far as the administrative transfers are concerned, the Courts cannot interfere in a routine manner. Judicial review against the orders of administrative transfers are limited and the High Court cannot interfere with the routine administration of the public departments.

6. Such personal grievances cannot be considered in a writ petition and it is for the authorities to take note of such grievances in the interest of public administration and if necessary to consider the grievances of the individual employees. Such an exercise cannot be done by the High Court in writ proceedings under Article 226 of the Constitution of India. Thus, the writ petitioner, being a public servant, is expected to work in a place wherever he is posted and further, he is posted from Tiruchirappalli to Thuraiyur, which is not a far away place.

7. 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.

8. 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.

9. 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.

10. 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 paralysed. 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.

11. 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.

12. A mere forthcoming retirement or short tenure, cannot constitute a ground to attack the administrative orders of transfers. No doubt, certain difficulties may arise in the family of the Government servants in the event of an order of administrative transfer. But the interest of administration and the public interest alone are the paramount importance and this Court cannot extend any leniency to the Government employee on such pleadings of personal grievances. It is for the Competent Authorities to consider those grievances and even in case, such grievances are not considered by the original authority, it is left open to the Government employees to approach the higher authorities or the Government in this regard, but certainly not before this Court under Article 226 of the Constitution of India.

13. 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.

14. Thus, the writ petitioner has not established any acceptable legal ground for the purpose of interference with the administrative order of transfer and accordingly, the writ petition is devoid of merits and stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Svn

To

1.The Principal Chief Conservator of Forests,
(Head of Forest Force),
Panagal Building,
Saidapet,
Chennai-15.

2.The Conservator of Forest,
Trichy Division,
Trichy District.

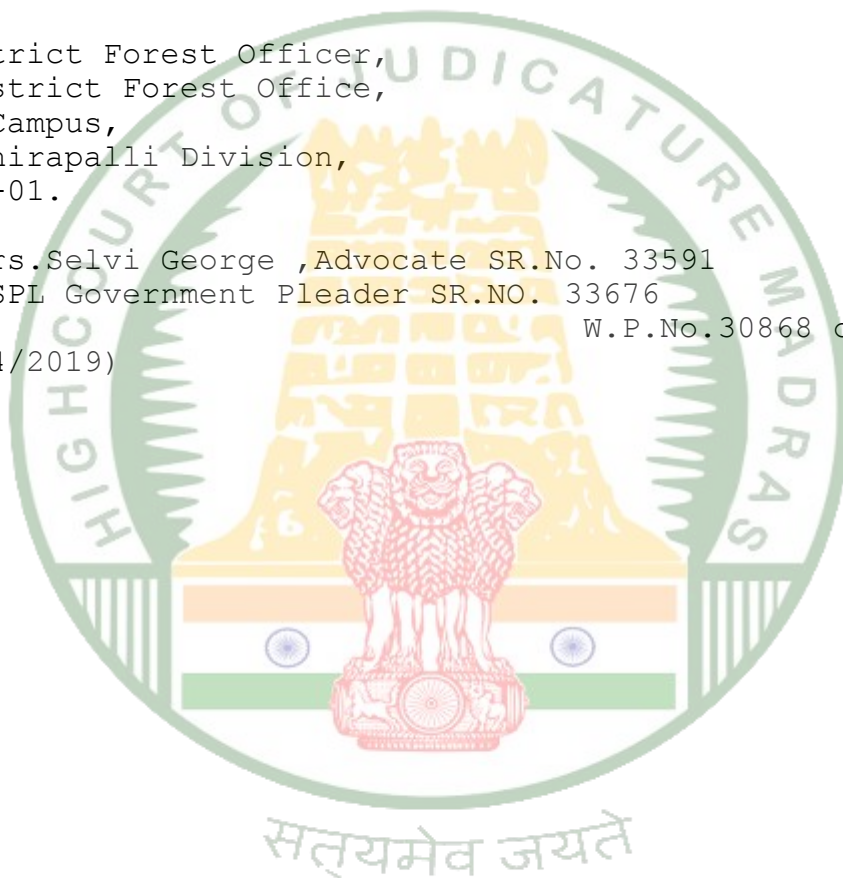
3.The District Forest Officer,
O/o.District Forest Office,
Court Campus,
Thiruchirapalli Division,
Trichy-01.

+1cc to Mrs.Selvi George ,Advocate SR.No. 33591

+1 cc to SPL Government Pleader SR.NO. 33676

W.P.No.30868 of 2018

A.SK(27/04/2019)



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