



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE **S.M. SUBRAMANIAM**

W.P.(MD)No.12955 of 2019

and

W.M.P.(MD)No.9648 of 2019

G.Subramanian

... Petitioner

-Vs-

The Managing Director,
Tamil Nadu Civil Supplies Corporation,
TNCSC, Head Office,
No.12, Thambusamy Road,
Kilpauk, Chennai

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct the respondent to consider the petitioner's representation dated 24.05.2019 and permit him to continue his services for the vacant Superintendent post in Dindigul Zone.

For Petitioner : Mr.G.V.Vairam Santhosh

ORDER

The relief sought for in the present writ petition is to direct the respondent to consider the petitioner's representation, dated 24.05.2019 and permit him to continue his service in the vacant post of Superintendent in the Dindigul Zone.

2. The post or place cannot be claimed as a matter of choice by the Government Servants. The public servants are bound to work wherever they are posted. Transfer is an incidental to service, more so, a condition to service. An order of transfer can be challenged only on certain limited grounds. In the present case even the order of transfer has not been issued and the writ petitioner claims that there is a vacancy in Dindigul Zone and the petitioner must be accommodated in Dindigul Zone till his retirement. The petitioner is due to retire from service after one year.

3. The very claim set out in the writ petition is not acceptable for the reason that no Government employee can claim that he should be accommodated in a particular post or particular place. Personal grievance, if any, has to be placed before the higher authorities for consideration.



4. Transfer is not a punishment. In public service transfer is unavoidable. However, transfer proceedings are issued on various circumstances and on administrative grounds. The authorities competent are the best persons to decide the post and particular place for an effective and efficient public administration. Only in the event of establishing *mala fide* or incompetency or violation of statutory provisions, the order of transfer can be challenged and not otherwise.

5. The learned counsel for the petitioner states that when there is a vacancy, the authorities competent has to consider the case of the writ petitioner to accommodate him in Dindigul Zone. Such relief is not supported with any legal right. It is a precondition that the person approaching the High Court has to establish the legal right, so as to consider the relief as such sought for. In the absence of any such legal right, even a direction to consider the representation cannot be granted.

6. Disposal of the representation cannot be issued in mechanical and routine manner. This disposal of representation mantra is increasingly permeating the judicial process in the High Court and Tribunals. Such orders may make for quick or easy disposal of the cases in overburdened adjudicatory institutions. But, they do no service to the cause of justice. The litigant is back again before the Court, as this case shows, having incurred attendant costs, and suffered delays of the legal process. The authorities are passing some orders in mechanical manner and again the litigant is driven to the Court, which may make frustration.

7. Building up public confidence is of paramount importance. Once the public trust is broken then the institutions cannot survive. Thus every litigation must be decided substantially with legal grounds and for the sake of disposal cases cannot be decided by issuing directions to consider the representation in a routine manner. This apart issuing of such directions may cause inconvenience to the competent authorities. Every authority has to perform his official duties and responsibilities with devotion and in the event of issuing routine directions it may not be possible for them to issue such orders without any purpose being served.

8. Therefore, the high Court cannot exercise its power in issuing such direction to consider the representation in a routine manner. If the writ petitioner is able to establish his legal right with definite cause of action, then alone a direction should be issued even to consider the appeal or representation, which will have certain meaning. Otherwise the judicial process may not achieve its real purpose for the purpose of rendering justice to the citizen at large.



9. As far as the present lis on hand is concerned the writ petitioner seeks a direction to consider the representation for the purpose of getting transfer in Dindigul Zone. The post of Superintendent is vacant in the Dindigul Zone. Such claim deserves no merit consideration as the writ petitioner has not established even a semblance of legal right so as to consider the claim. Accordingly, this Writ petition is devoid of merits and stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(P & A)

// True Copy //

Sub Assistant Registrar(CS)

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To

The Managing Director,
Tamil Nadu Civil Supplies Corporation,
TNCSC, Head Office,
No.12, Thambusamy Road,
Kilpauk, Chennai

W.P. (MD) No.12955 of 2019
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AVS (CO)

TR (19.06.2019) 3P 2C