



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.07.2019

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P (MD) No.7858 of 2015
and
M.P (MD) Nos.1 & 2 of 2015
and
W.M.P (MD) No.17117 of 2017

S.R.Kithuroli @ Raja Mohamed

... Petitioner

Vs

1.The Director of Municipal Administration,
Municipal Administration & Water Supply Department,
Chepauk, Chennai-5.

2.The Municipal Commissioner,
Tenkasi Municipality,
Tenkasi,
Tirunelveli District.

3.The Municipal Commissioner,
Kayalpattinam Municipality,
Kayalpattinam,
Tuticorin District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order of transfer issued by the first respondent in his proceedings in Roc.No.13668/2015/K2 dated 30.04.2015 and quash the same as illegal.

For Petitioner	: Mr.C.Venkatesh Kumar for M/s.Ajmal Associates
For R1 & R3	: Mr.M.Jeyakumar Additional Government Pleader
For R2	: Mr.P.Athimoolapandian

ORDER

The order of transfer dated 30.04.2015 transferring the writ petitioner from Tenkasi Municipality to Kayalpattinam Municipality in the existing vacancy is under challenge in the present writ petition.



2. The order of transfer is not punitive but administrative. However, the writ petitioner has challenged the transfer order and by virtue of Interim order granted by this Court, is continuing in the same post.

3. The learned counsel appearing on behalf of the second respondent states that the writ petitioner is continuing in the same post at Tenkasi for more than 35 years. Such situation itself is undesirable and not in the interest of public administration. The transfer policy is being implemented for effective and efficient public administration. If any person is allowed to continue in the same post for more than 35 years, undoubtedly he would have created familiarity with the local people and the same may cause prejudice for administration. This apart, the writ petitioner has already served 35 years in one post and therefore he cannot prevent the authorities from transferring him to any other place.

4. The learned counsel for the petitioner states that the writ petitioner is a differently abled person. Differently abled persons are not absolutely exempted from transfer proceedings. Undoubtedly, their personal grievance can be redressed by the competent authority. However, they cannot seek total exemption from the transfer policy being implemented for efficient and effective public administration. Even at the time of appointment there was no order for total exemption for differently abled person from administrative transfer. Differently abled person also has to perform his duties and responsibilities. Wherever the petitioner is posted, he has to work in the interest of public. Therefore, his disability is noway connected with the duties and responsibilities attached to the post. If at all the writ petitioner is of the opinion that he is not in a position to perform the duties and responsibilities, then he has to take a decision to opt for Voluntary Retirement Scheme or otherwise. Contrarily, he cannot seek exemption from transfer and he cannot claim to continue in the same post till his date of retirement. Such claim is certainly improper under the service rules.

5. The writ petitioner has already served 35 years in the same station and it is not desirable to allow him to continue in the same post any further.

6. Under these circumstances, it is left open to the respondent to assess the present situation in the interest of public administration and take a decision properly in this regard.

7. Accordingly, quashing of impugned order of transfer cannot be granted and the Writ Petition stands dismissed. If at all there is any personal grievance to the writ petitioner, it is left open to him to approach the competent authorities for redressal. Thus, the writ petition stands dismissed. However, there shall be no order as



to costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (ADII)

Sub Assistant Registrar (CS)

To

1.The Director of Municipal Administration,
Municipal Administration & Water Supply Department,
Chepauk, Chennai-5.

2.The Municipal Commissioner,
Tenkasi Municipality,
Tenkasi,
Tirunelveli District.

3.The Municipal Commissioner,
Kayalpattinam Municipality,
Kayalpattinam,
Tuticorin District.

+One cc to Mr.P.Athimoola Pandian, Advocate, SR.No.72929

+One cc to M/s.Ajmal Associates, SR.No.73110

+One cc to The Special Government Pleader, SR.No.73243

W.P (MD) No.7858 of 2015
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RL/16.07.2019/3P/7C