



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.10.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.13874 of 2019

and

W.M.P (MD)Nos.10382 & 10383 of 2019

N.Mahalakshmi

... Petitioner

Vs.

1.The Commissioner of Municipaly Administration,
Chennai-28.

2.The Regional Director of Municipal Administration,
Tirunelveli Region,
Tirunelveli.

3.The Commissioner,
Sankarankovil Municipality,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned transfer order dated 03.06.2019 passed by the first respondent vide his proceedings in Na.Ka.No.181/2019/K2 and quash same as illegal and consequently direct the respondents to retain the petitioner in the Sankarankovil Municipality as Junior Assistant.

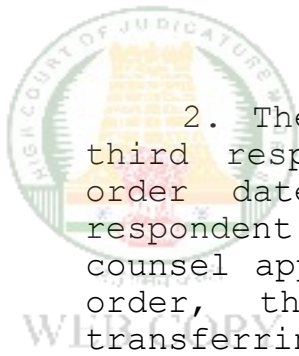
For Petitioner : Mr.S.Sukumar

For R1 & R2 : Mr.S.Dhayalan,
Government Advocate

For R3 : Mr.P.Mahendran

ORDER

This writ petition is filed challenging the order of transfer, dated 03.06.2019, passed by the first respondent, vide his proceedings in Na.Ka.No.181/2019/K2 and quash same as illegal and consequently, direct the respondents to retain the petitioner in the Sankarankovil Municipality as Junior Assistant.

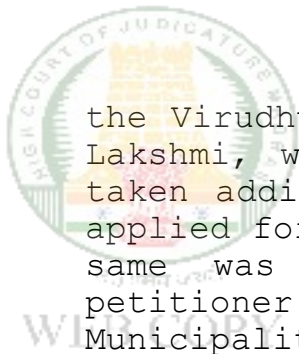


2. The petitioner while working as a Junior Assistant in the third respondent Municipality, the first respondent, by impugned order dated 03.06.2019, transferred the petitioner from third respondent Municipality to Virudhunagar Municipality. The learned counsel appearing for the petitioner contended that in the impugned order, the first respondent has not given any reason for transferring the petitioner. He further contended that the transfer is punitive in nature. One Murugesan, who was working in the third respondent Municipality was also transferred from the third respondent Municipality to Kovilpatti Municipality and he had some problems with his wife. His wife had given a complaint to the Inspector of Police, All Women Police Station, Sankarankovil, that the said Murugesan is having contact with number of ladies and she mentioned the petitioner's name also in the said complaint. The police enquired the complaint of the wife of Murugesan in the office of the third respondent and the officials of the third respondent knew about the complaint made by the wife of the Murugesan. Therefore, the said complaint was closed. In view of such false complaint, the petitioner was transferred to Virudhunagar Municipality. The petitioner is un-married lady and her parents are no more. The petitioner was given compassionate appointment as Revenue Assistant in Rajapalayam Municipality, as her mother died while in her service. The petitioner sought for voluntary transfer to third respondent Municipality as her relatives are staying in Sankarankovil. There are number of persons working in the third respondent for more than 5 years and they are not transferred. The petitioner was transferred within 1 ½ years from the date of her joining.

3. In support of his case, the learned counsel appearing for the petitioner relied on the judgment in ***S.Pitchai Arockiyam v. District Elementary Educational Officer reported in (2006) 3 M.L.J., 1053*** and the relevant paragraph No.6 is extracted hereunder:-

"6.Thus, whenever the authorities initiate proceedings to transfer an employee, the employee should know the grounds for such transfer. Otherwise, he will be kept in dark and the sweet will and pleasure of the higher authorities in transfer without assigning reasons for the transfer is bad. The authorities should mention the necessary reasons for transfer more so when the G.O., referred above mandate for it. But, in the impugned order, such reasons are not assigned."

4. The third respondent filed counter. Mr.P.Mahendran, learned counsel appearing for the third respondent stated that as per Rule 31(c) of the Tamil Nadu Municipal Service Rules, 1970, the petitioner was transferred by the first respondent by exercising the power conferred on him. As per the said rule, the first respondent has power to transfer any member of service from one Municipality to other Municipality. The petitioner was relieved and she joined in



the Virudhunagar Municipality. In the place of the petitioner, one Lakshmi, who is working in the third respondent Municipality, has taken additional charge. After being relieved, the petitioner was applied for medical leave, enclosing the medical certificate and the same was forwarded to the Virudhunagar Municipality, as the petitioner was already relieved from the third respondent Municipality. The third respondent surrendered two posts of Junior Assistant and now, there is no vacancy and prayed for dismissal of the writ petition.

5. The petitioner filed rejoinder affidavit and denied all the averments made in the counter affidavit and reiterated the averments in the affidavit. In addition to that, the petitioner denied that she already relieved. The petitioner has not received any relieving order. The third respondent has made false statement and no relieving order was issued to the petitioner. She is not well and therefore, she applied for medical leave and she is on medical leave and prayed for allowing the writ petition.

6. Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents 1 & 2 and the learned counsel appearing for the third respondent and perused the materials available on record.

7. From the impugned order of the first respondent, it is seen that the first respondent has not given any reason for transferring the petitioner from third respondent Municipality to Virudhunagar Municipality. By the impugned transfer order, the first respondent has transferred one Murugesan also from the third respondent Municipality to Kovilpatti Municipality. The learned counsel appearing for the petitioner contended that the impugned transfer of the petitioner, is punitive in nature. The petitioner is transferred based on the false complaint given by the wife of the said Murugesan, connecting the said Murugesan with the petitioner. This contention is substantiated by the petitioner, by facts. The said Murugesan is also transferred from third respondent Municipality to Kovilpatti Municipality. The third respondent in the counter affidavit did not deny the said fact. In the judgment relied on by the learned counsel for the petitioner, this Court has held that in the transfer order, the reason for transfer must be mentioned for the simple reason that the employee must know the reason for said transfer. The Judgment relied on by the learned counsel for the petitioner in ***R.Mohanasundaram v. The Principal Chief Conservator of Forests reported in 2009(5) CTC 231***, this Court has held that when a transfer is a punitive in nature, the same is liable to be set aside. Both the orders are squarely applicable to the facts of the present case.

8. In the result, the writ petition is allowed by setting aside the order of the first respondent, dated 03.06.2019. The



respondents are directed to permit the petitioner to join duty as Junior Assistant in the third respondent Municipality forthwith if she was already relieved. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Commissioner of Municipality Administration,
Chennai-28.

2.The Regional Director of Municipal Administration,
Tirunelveli Region,
Tirunelveli.

+1 CC to M/s.P.MAHENDRAN, Advocate (SR-93604[F] dated 22/10/2019)

+1 CC to M/s.S.SUKUMAR, Advocate (SR-93926[F] dated 23/10/2019)

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