



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.11.2019

CORAM :

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD)No.5362 of 2019

and

W.M.P.(MD)Nos.4270 and 4271 of 2019

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Flowrance Manimala

... Petitioner

vs.

1.The Director,

Tamil Nadu State Health Transport Department,
Guindy, Chennai - 600 032.

2.The Workshop Superintendent,

Regional Workshop (H),
Trichy - 620 007.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus, calling for the records in proceedings in Na.Ka.No.1710/A3/2019, dated 14.02.2019, issued by the first respondent and the proceedings in Na.Ka.No.369/A/2019, dated 18.02.2019, issued by the second respondent and quash the same.

For Petitioner

: Ms.D.Geetha

For Respondents

: Mr.VR.Shanmuganathan

Special Government Pleader

ORDER

This Writ Petition has been filed seeking to quash the proceedings of the first respondent in Na.Ka.No.1710/A3/2019, dated 14.02.2019, and the proceedings of the second respondent in Na.Ka.No.369/A/2019, dated 18.02.2019.

2.According to the learned counsel appearing for the petitioner, the petitioner was appointed as Office Assistant on 18.09.2008 under compassionate ground on the death of her husband while in service. While so, a charge memo dated 18.05.2018 was issued to her. The petitioner was not furnished with copies of documents relied on by the respondents, in spite of her repeated requests to furnish the same. While the enquiry was pending, by impugned orders, the petitioner was transferred from the second respondent Office to the first respondent Office. The impugned orders of transfer are in violation of G.O.Ms.No.10, Personnel and Administrative Reforms (Per.S) Department, 07.01.1994. In the said Government Order, the Government has issued certain guidelines with regard to transfer. In the said Government Order, it is specifically stated that the guidelines on transfer do not apply to the transfers of Government Servants in Group 'D' post. The respondents in violation of the said exception transferred the petitioner from Trichy to Chennai, pending enquiry and therefore,



learned counsel prayed for allowing the Writ Petition.

3.The respondents filed counter affidavit along with vacate stay petition. The learned Special Government Pleader appearing for the respondents contended that the petitioner was in the habit of disobeying the orders of her superiors and took leave without prior permission, hence, she was issued with several warnings. The petitioner has been transferred by the impugned orders on administrative grounds. The guidelines issued in G.O.Ms.No.10, Personnel and Administrative Reforms (Per.S) Department, 07.01.1994, applies for general transfer and it will not be applicable to the transfer, pending enquiry. As per Clause III (vii) (f) in Annexure - I to the said Government Order, the respondents have power to transfer an employee pending enquiry to a vacant post in another Station. The petitioner has been transferred to a vacant post in the Office of the first respondent. The petitioner has not approached the Court with clean hands. Further, all the documents were already furnished to her. The petitioner was delaying in completion of enquiry and now, the enquiry has been completed and prayed for dismissal of the Writ Petition.

4.I have heard the learned counsel for the parties and perused the materials on record.

5.From the materials on record, it is seen that the petitioner has been transferred after issuance of charge memo and pending enquiry. Even though the impugned orders state that the petitioner has been transferred on administrative reason in public interest, the fact remains that the petitioner has been transferred pending enquiry. G.O.Ms.No.10, Personnel and Administrative Reforms (Per.S) Department, 07.01.1994, is the guidelines for transfer. In the said Government Order, there is no prohibition for the Department to transfer Group 'D' Government Servants from one Station to another Station. Clause III (vii) (d) in Annexure - I to the said Government Order relates to non-applicability of the general guidelines to transfer of Government Servants in Group 'D' posts. By this exception to the general guideline, the guidelines in the said Government Order, is not applicable to the Government Servants in Group 'D' posts. As mentioned earlier, there is no prohibition in the guidelines with regard to transfer any employee including the Government Servant from one Station to another Station. In view of the same, the contention of the learned counsel appearing for the petitioner that Group 'D' Government Servants cannot be transferred from one Station to another Station, is without merits. As rightly pointed out by the learned Special Government Pleader that an employee can be transferred to a vacant post in another Station pending enquiry, when it is considered necessary in public interest instead of suspending the employee. The petitioner is transferred pending enquiry to the vacant post in the Office of the first respondent. There is no infirmity in the said orders of



6.For the above reason, this Writ Petition fails and the same is liable to be dismissed, accordingly, dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar (w)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Director,
Tamil Nadu State Health Transport Department,
Guindy, Chennai - 600 032.

2.The Workshop Superintendent,
Regional Workshop (H),
Trichy - 620 007.

+1 CC to M/s.D.GEETHA, Advocate (SR-99124[F] dated 18/11/2019)

+1 CC to Spl.GP SR-99548[F] dated 19/11/2019)

smn2 /sma/29/11/19/3p/5c

W.P. (MD)No.5362 of 2019
18.11.2019