



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.20676 of 2015

and

M.P. (MD)No.1 of 2015

WEB COPY

M.Panimalar

... Petitioner

-Vs-

1.The Director of Treasuries and Accounts,
Saidapet, Chennai-15.

2.The Pay & Accounts Officer,
O/o. Pay & Account,
South Veli Street, Madurai-625 001.

3.R.Manvizhi

... Respondents

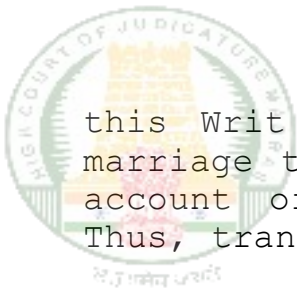
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent in connection with the impugned posting order passed by him in RC.No.21540/2015/N1, dated 16.11.2015 and consequential relieving order passed by the second respondent in Na.Ka.11112/2015/Nir.1/A1, dated 16.11.2015 and quash the both as illegal and arbitrary and consequently, direct the first respondent to repost the petitioner at Pay & Account Office, Madurai, ie., 2nd respondent office within the time limit that may be stipulated by this Court.

For Petitioner	: Mr.K.Gurunathan
For R1 and R2	: Mr.M.Jeyakumar, Additional Government Pleader.
For R3	: No Appearance

ORDER

The order of transfer, transferring the writ petitioner from the Pay and Accounts Office, Madurai to District Treasury, Madurai in the existing vacancy, is under challenge in the present Writ Petition.

2.The writ petitioner, who is working as Superintendent filed this Writ Petition stating that on account of certain personal inconvenience, she is unable to join in the transferred place. In paragraph No.4 of the affidavit filed in support of



this Writ Petition, the writ petitioner states that though her marriage took place on 05.02.2010, she could not be conceived on account of medical issues and was taking fertility treatment. Thus, transfer order will affect treatment to be taken by her.

3.The affidavit further states that the distance between her resident to the office of the second respondent is only 10 minutes duration and therefore, she could easily attend her child. Contrarily, the office, in which she had been transferred, may take some more time i.e., 15 minutes. The way, in which and the grounds, on which the Writ Petition is filed, is absolutely not convincing and the writ petitioner is totally not fit to serve for the public at large. 100%, the writ petitioner expresses her selfishness in working in the same post for her personal kinds.

4.Dedication is of paramount importance for public services. If any public servant files a Writ Petition for certain frivolous reasons, the same should be thrown out by the Courts. However, the Government servants are having difficulties, personal issues and problems. In spite of those personal problems, the Government servants are bound to work in the interest of public at large. They are receiving a decent amount of salary from the taxpayers' money. Thus, certain personal grievances are to be tolerated and they have to perform their duties with full devotion.

5.This being the expectations of the people at large, the writ petitioner challenged the order of transfer, transferring her from Pay and Accounts Office, Madurai to District Treasury at Madurai. Both the offices are situated within the city of Madurai.

6.This Court is of an opinion that transfers can be issued on various grounds. Transfers are imminent in respect of public servants, whenever a 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 come to the conclusion that further continuance of a public servant in the 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 remedy 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.

7.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.

8. 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.

9. 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 paralyzed. 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.



10.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.

11.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.

12.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.

13.In the present case on hand, if at all the writ petitioner is continuing in the same post or in the same station for number of years, the official respondents are bound to ascertain the present position and post the writ petitioner in a proper place. Transfer policy is implemented by the State Government for effective and efficient administration and to provide better services to the public at large. Keeping a public servant in one place for years together will create personal acquaintance with the public and the local persons. Thus, transfer policy is also an imminent factor for the purpose of running the public administration efficiently.



14.This being the principles to be followed, the case of the writ petitioner also is to be reviewed. If necessary, the authorities competent should take note of these factors and take an appropriate decision without causing any undue delay.

15.With these observations, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Director of Treasuries and Accounts,
Saidapet, Chennai-15.

2.The Pay & Accounts Officer,
O/o. Pay & Account,
South Veli Street,
Madurai-625 001.

+1 CC to SPL GP SR-78982.

W.P. (MD)No.20676 of 2015
30.07.2019

CS(13.08.2019) 5P 4C