



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.10.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.25555 of 2018

and

W.M.P. (MD) No.23168 of 2018

WEB COPY

A.Ravikumar

... Petitioner

-Vs-

1.The Director,
Adi Dravidar Welfare Department,
Chepauk, Chennai-5.

2.The District Adi Dravidar and Tribal
Welfare Officer,
Ramanathapuram District,
Ramanathapuram.

3.K.Arjunan

... Respondents

(R3 is impleaded vide Court order dated 19.02.2019 in W.M.P.(MD) No.186 of 2019 in W.P.(MD)No.25555 of 2018)

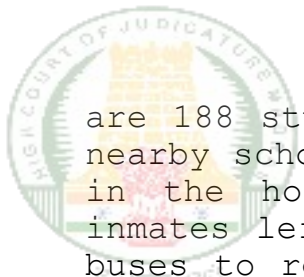
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the entire records pertaining to the order of transfer passed by the first respondent vide his proceedings in Na.No.O.2/16400/2018, dated 21.12.2018 and quash the same and consequently, to direct the respondents to permit the petitioner to continue with the petitioner's service as Warden in Government Adi Dravidar Welfare Boys Hostel, Mudukulathur, Ramanathapuram District.

For Petitioner: Mr.R.Anand
For R1 and R2 : Mr.S.Dhayalan,
Government Advocate.
For R3 : Mr.Rajakarthikeyan

ORDER

This Writ Petition is filed to quash the order of the first respondent dated 21.12.2018 and to direct the respondents to permit the petitioner to continue with the petitioner's service as Warden in Government Adi Dravidar Welfare Boys Hostel, Mudukulathur, Ramanathapuram District.

2.According to the petitioner, he was working as Warden at Government Adi Dravidar Welfare Boys Hostel, Mudukulathur. There



are 188 students staying in the said hostel and they are attending nearby schools. Three times in a day food was given to the inmates in the hostel. On 07.08.2018, Ex.Chief Minister died and the inmates left for their native place, fearing that they may not get buses to reach their homes. The Government has also declared the next day i.e., 08.08.2018 as a public holiday. While so, the District Revenue Officer, Ramanathapuram along with Tahsildar came to the hostel and inspected the hostel. The petitioner has informed the reason as to why the inmates left the hostel and no students are inside the hostel at the time of inspection. However, the District Revenue Officer has not considered the same and forwarded the same to the second respondent. The second respondent, in turn, has suspended the petitioner from service on 16.08.2018. The petitioner gave a representation to revoke the suspension order on 17.08.2018 to the first respondent. However, no order was passed on the representation. Therefore, the petitioner has filed W.P.(MD) No.18322 of 2018, challenging the order of suspension, subsequently, withdrew the said Writ Petition. The second respondent, by the order dated 19.11.2018, has revoked the order of suspension and posted the petitioner in the same place, where he was working as Warden. Thereafter, the second respondent has issued a charge memo dated 23.08.2018 to the petitioner. The petitioner has submitted his explanation and the domestic enquiry is pending. While so, the first respondent, by the impugned order dated 21.12.2018, has transferred the petitioner from the post of Warden to the post of B.T. Assistant. Challenging the said order of transfer dated 21.12.2018, the petitioner has come out with the present Writ Petition.

3.The respondents 1 and 2 and the third respondent have filed separate counter affidavits along with vacate stay petitions. The learned Government Advocate appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent made separate contention, substantiating the impugned proceedings. According to the learned Government Advocate and the third respondent, when a person is worked in a particular place for more than three years, he has to be transferred to some other place. The respondents are relying G.O.Ms.No.122, Adi Dravidar and Tribal Welfare (ADW7) Department, dated 23.07.2018 and G.O.Ms.No.96, Adi Dravidar and Tribal Welfare Department, dated 20.05.2013.

4.The learned Government Advocate appearing for the respondents 1 and 2 further contended that when the petitioner has committed certain irregularities, the second respondent has erroneously posted the petitioner to the same post as Warden. In view of the same, the first respondent has reviewed the order of the second respondent and transferred the petitioner, by the impugned proceedings dated 21.12.2018 to a teaching post, since the petitioner has committed irregularities, while working as Warden.



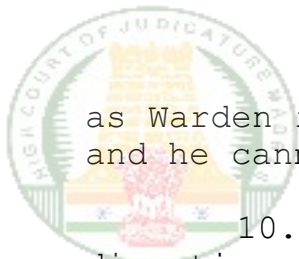
5.The learned counsel appearing for the third respondent contended that on the representation of the third respondent to look after his aged sick parents, who are residing with him, he was transferred and posted in his native place as Warden in Government Adi Dravidar Welfare Boys Hostel, Mudukulathur, Ramanathapuram District. Therefore, the petitioner was relieved from the same post and the third respondent has joined on 24.12.2018. When the Writ Petition was moved in admission during the vacation Court, the learned counsel appearing for the third respondent brought to the notice of this Court that the petitioner was already relieved and the third respondent has joined duty. Therefore, this Court did not grant any interim order. On the next date of hearing, when his junior was present before the Court, this fact was suppressed and in the absence of the present learned counsel for the third respondent, interim order was granted. In view of the interim order, the third respondent was relieved from the post of Warden.

6.The learned Government Advocate appearing for the respondents 1 and 2 and the learned counsel for the third respondent contended that posting the petitioner as Warden in the same hostel, when he has committed irregularities, is in violation of G.O.Ms.Nos.122 and 96. Therefore, the impugned order of the first respondent is valid and legal.

7.In reply to the said arguments, the learned counsel appearing for the petitioner submitted that this Court, after hearing the learned counsel for the petitioner and the third respondent only, has granted interim order and in view of the interim order, the petitioner has joined as Warden in the same hostel on 16.02.2019.

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

9.From the materials on record, it is seen that the petitioner was issued with a charge memo on 23.08.2018, alleging certain irregularities, while he was working as Warden in the Government Adi Dravidar Welfare Boys Hostel, Mudukulathur, Ramanathapuram District. By the order dated 16.08.2018, the petitioner was suspended from service. Subsequently, based on the representation of the petitioner, the second respondent, by the order dated 19.11.2018, revoked the order of suspension and re-posted the petitioner as Warden in the same hostel and the petitioner has joined duty. While so, the first respondent *suo motu*, reviewing the order of the second respondent, has set aside the order of the second respondent, posting the petitioner as B.T. Assistant. According to the learned Government Advocate, when there are charges of irregularities against the petitioner, who is working



as Warden in the Hostel, he has to be posted only in a teaching post and he cannot be posted in the same post as Warden.

10.The learned Government Advocate has relied on the directions given by the Government in G.O.Ms.No.122 and G.O.Ms.No.96 and contended that when a person worked as a Warden for three years, he must be transferred to schools and when the Warden has committed irregularities, he cannot be continued in the post of Warden. The reliance placed by the first respondent in the impugned order for transferring the petitioner from the post of Warden to a teacher, is erroneous. As per the Clause 9 of the said Government Order, only after due enquiry and if the charges are proved, a Warden must be transferred to a school, where there is no hostel. In the present case, according to the learned Government Advocate, disciplinary proceedings were initiated against the petitioner, however, no enquiry officer has been appointed, disciplinary proceedings are not yet completed and no final order, so far, has been passed in the disciplinary proceedings. In view of the same, the impugned order of the first respondent, transferring the petitioner relying on G.O.Ms.Nos.122 and 96, is invalid.

11.In view of the above, the impugned order of the first respondent dated 21.12.2018, is set aside. However, it is open to the respondents 1 and 2 to pass suitable orders, after completion of disciplinary proceedings. As far as the third respondent is concerned, even though he joined duty as Warden in Government Adi Dravidar Welfare Boys Hostel, Mudukulathur, Ramanathapuram District and as per the interim order, he was relieved and subsequently, posted as Teacher in Sengapadai Government Higher Secondary School, by the proceedings of March, 2019.

12.With the above direction, this Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

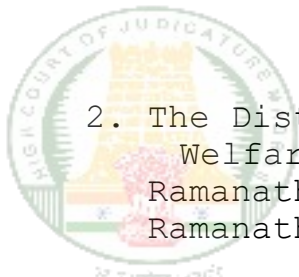
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Sub Assistant Registrar(CS)

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To

1. The Director,
Adi Dravidar Welfare Department,
Chepauk, Chennai-5.



2. The District Adi Dravidar and Tribal
Welfare Officer,
Ramanathapuram District,
Ramanathapuram.

+1.CC. To Mr.Rajakarthikeyan, Advocate in SR No.94521

+1.CC. To SPL. GOVT. PLEADER in SR No.94254

W.P. (MD) No.25555 of 2018

23.10.2019

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