



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.24760 of 2019

and

W.M.P(MD)Nos.21361 & 21364 of 2019

WEB COPY

Nevulinathan

... Petitioner

vs.

1.The Additional Director General of Police (L & O),
Office of the Director General of Police,
Mylapore, Chennai-600 004.

2.The Inspector General of Police,
(South Zone), 77, 4th Street,
K.K.Nagar, Race Course Colony,
Madurai-625 002.

3.The Commissioner of Police,
Madurai City,
No.1/165, Alagar Kovil Main Road,
Madurai-625 002.

4.The Deputy Inspector General of Police,
Thanjavur Range,
Thanjavur.

5.The Inspector of Police,
D-1 Tallakulam Police Station (L & O),
Sellur, Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the impugned Transfer Order in CPO No.1745/2019/C.No.A3/58175/2019 dated 07.11.2019 passed by the third respondent and relieving order (passport) dated 08.11.2019 issued by the 5th respondent and quash the same and consequently direct the respondents to treat the period from 08.11.2019 to the date of rejoining in service as duty period for all purpose and grant all the service and monetary benefits.

For Petitioner : Mr.S.Muniyandi

For Respondents : Mr.C.Ramar,

Additional Government Pleader



ORDER

This writ petition is filed challenging the Transfer Order in CPO No.1745/2019/C.No.A3/58175/2019 dated 07.11.2019 passed by the third respondent and relieving order (passport) dated 08.11.2019 issued by the 5th respondent and quash the same and consequently direct the respondents to treat the period from 08.11.2019 to the date of rejoining in service as duty period for all purpose and grant all the service and monetary benefits.

2. Mr.C.Ramar, learned Additional Government Pleader takes notice for the respondents. By consent of both parties, the Writ Petition is taken up for final disposal at the stage of admission itself.

3. The petitioner is working under the third respondent/The Commissioner of Police, Madurai City. The petitioner was transferred by the impugned order, dated 07.11.2019 from Madurai City Police to Thanjavur Range, on administrative grounds. The petitioner is challenging the same on the ground that the petitioner is transferred in the middle of the academic year to a place 200 kms far away from the native place and as such, aged parents, who are in care and custody of the petitioner, could not be shifted to a far away place from his native place and the petitioner's physical presence is very much essential to look after and take care of three minor children and aged parents. The petitioner was not given any opportunity of hearing before passing the impugned order, which is contrary to the guidelines issued in G.O.Ms.No.10, Administrative Reforms Department, dated 07.01.1994 and prayed for allowing the writ petition.

4. From the impugned order, it is seen that the petitioner is transferred on administrative grounds. The respondents have the power to transfer a Government Servant and the transfer in Government service is not only an incident of service, but also a condition of service. The contention of the learned counsel for the petitioner that the impugned transfer order is contrary to the guidelines mentioned in G.O.Ms.No.10, Administrative Reforms Department, dated 07.01.1994, is not correct. As per the guidelines in G.O.Ms.No.10, Administrative Reforms Department, dated 07.01.1994, general transfer will be made between April and May, which is termed as transfer period. Even after the said period, the Department has the power to transfer an employee on administrative grounds. There is no prohibition for the Department to transfer the Government Servant during middle of the academic year. Courts can interfere with the order of transfer only if the same is punitive in nature or malafide. The petitioner has not alleged that the transfer is in the nature of punishment or it is malafide. In such circumstances, there is no illegality or irregularity in the impugned order of transfer and hence the writ petition is liable to



be dismissed and is hereby dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

WEB COPY

// True Copy //

Sub Assistant Registrar (CS)

am

To

- 1.The Additional Director General of Police (L & O),
Office of the Director General of Police,
Mylapore, Chennai-600 004.
 - 2.The Inspector General of Police,
(South Zone), 77, 4th Street,
K.K.Nagar, Race Course Colony,
Madurai-625 002.
 - 3.The Commissioner of Police,
Madurai City,
No.1/165, Alagar Kovil Main Road,
Madurai-625 002.
 - 4.The Deputy Inspector General of Police,
Thanjavur Range,
Thanjavur.
 - 5.The Inspector of Police,
D-1 Tallakulam Police Station (L & O),
Sellur, Madurai.
- +1 CC to M/s.S. MUNIYANDI, Advocate (SR-100882[F] dated 25/11/2019)
- +1 CC to M/s.SPL GP (SR-101115[F] dated 25/11/2019)

W. P (MD) No. 24760 of 2019
22.11.2019

KK/SAR/19.12.2019/3P-8C/