



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.12.2019

CORAM:

**THE HONOURABLE MR.JUSTICE M.DURAI SWAMY
AND**

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

W.A(MD)No.1527 of 2019

and

C.M.P(MD)No.12202 of 2019

The Commissioner,
Sankarankovil Municipality,
Sankarankovil,
Tirunelveli District. ... Appellant/3rd Respondent

Vs.

1.N.Mahalakshmi ... 1st Respondent/Writ Petitioner

2.The Commissioner of Municipal Administration,
Chennai - 600 020.

3.The Regional Director of Municipal Administration,
Tirunelveli Region,
Tirunelveli. ... Respondents 2 & 3/
Respondents 1 & 2

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order, dated 22.10.2019 made in W.P(MD)No.13874 of 2019 on the file of this Court.

Prayer in WP(MD). 13874 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned transfer order dated 03.06.2019 passed by the 1st respondent vide his proceedings in Na.Ka.No. 181/2019/K2 and quash the same as illegal and consequently direct the respondents to retain the petitioner in the sankarankovil Municipality as Junior Assistant.

For Appellant : Mr.P.Mahendran

For R - 1 : Mr.S.Sukumar

For RR 2 & 3 : Mr.J.Gunaseelan Muthiah,
Additional Government Pleader.



JUDGMENT

(Judgment of the Court was delivered by **M.DURAISWAMY, J.**)

The third respondent in the Writ Petition in W.P(MD)No.13874 of 2019, namely, the Commissioner, Sankarankovil Municipality, has filed the above Writ Appeal challenging the order passed by the learned Single Judge in W.P(MD)No.13874 of 2019, dated 22.10.2019.

2.The first respondent / writ petitioner filed the Writ Petition to issue a Writ of Certiorari Mandamus, to call for the records relating to the impugned transfer order dated 03.06.2019 passed by the first respondent and to quash the same and direct the respondents to retain the petitioner in the Sankarankovil Municipality as Junior Assistant.

3.The main contention of the writ petitioner before the learned Single Judge was that the order of transfer was passed against her as a punishment, which is against the settled position of law.

4.In the affidavit filed in support of the Writ Petition, the writ petitioner has stated that on 07.06.2019, she was served with an order of transfer issued by the first respondent transferring her from Sankarankovil Municipality to Virudhunagar Municipality. Further, she has stated that on perusing the order of transfer she came to know that along with her, another person by name Murugesan was also transferred from Sankarankovil Municipality to Kovilpatti Municipality. The writ petitioner has further stated that the said person namely Murugesan, who worked with Sankarankovil Municipality as a Revenue Assistant, had some disputes with his wife and she used to suspect the character of her husband and his wife linked the writ petitioner with said Murugesan and also lodged a complaint before the All Women Police Station, Sankarankovil. After enquiry, the police dropped the complaint without any criminal action. Further, this fact was brought to the notice of the writ petitioner's superior officers, which led to the passing of the transfer order.

5.Though the writ petitioner has specifically made averments with regard to the complaint made by Murugesan and also stated that her superior officers knew about the said complaint and that as a punishment, she was transferred to Sankarankovil Municipality to Virudhunagar Municipality, in the counter-affidavit filed by the appellant / third respondent Municipality, he has not denied the said averments in any manner whatsoever.

6.The respondents 2 and 3 chose not to file a counter-affidavit in the Writ Petition. When the writ petitioner has specifically made averments in the affidavit filed in support of the Writ Petition that the order of transfer was punitive in nature, if the said averments are false, the respondents should have filed counter-



affidavit denying the said averments.

7.In the case on hand, though the appellant / third respondent Municipality filed his counter-affidavit, he did not disputed or denied the averments stated with regard to the complaint made by Murugesan's wife as against the writ petitioner. Even the appellant / third respondent Municipality chose not to state that the order of transfer was not punitive in nature and it was only on administrative ground.

8.In the absence of any specific denial made by the respondents to the effect that the order of transfer was not punitive, the learned Single Judge following the Judgment reported in **2009 (5) CTC 231 [R.Mohanasundram Vs. The Principal Chief Conservator of Forests]** set aside the order of transfer and allowed the Writ Petition.

9.For the reasons stated above, we do not find any reason to interfere with the order passed by the learned Single Judge and the Writ Appeal is devoid of merits and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Commissioner of Municipal Administration,
Chennai - 600 020.

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

+1 CC to M/s.S.SUKUMAR, Advocate (SR-104760[F] dated 12/12/2019)
+1 CC to M/s.P.MAHENDRAN, Advocate (SR-104744[F] dated 12/12/2019)
+1 CC to M/s.SPL.GP (SR-105011[F] dated 13/12/2019)

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