

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2020

CORAM:

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

W.P.NO. 3181 of 2020

and

WMP Nos.3691 & 3694 of 2020

S. Kannayal

... Petitioner

-Vs-

1. The Chairman
Common Cadre Committee
Joint Registrar of Co-operative Societies,
Eorde Region, Erode 638 009

2. AA 531, Kesarimangalam Primary Agricultural
Co-operative Credit Society Ltd.,
Rep. by its President
Kuppichipalayam, Bhavani Taluk
Erode District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari or any other appropriate writ order or direction in the nature of a writ calling for the records relating to the order of transfer passed by the first respondent in Na.ka.3711/2019/Tho.Ve.Sa dated 31.01.2020 quash the same.

For Petitioner : Mr. S.Doraiswamy

For Respondents: Mr.L.P.Shanmuga Sundaram
Special Government Pleader
for R1 & R2.

ORDER

This Writ Petition has been filed challenging the order of transfer passed by the first respondent by proceedings dated 31.01.2020.

2. The case of the petitioner is that she is working as Secretary in the second respondent Society from the year 2013 onwards. The first respondent, by his proceedings dated

31.01.2020, has passed a order transferring the petitioner from the second respondent Society to another Agricultural Cooperative Society. Aggrieved by the same, the present Writ Petition has been filed before this Court.

3. Mr. Doraisamy, learned counsel appearing on behalf of the petitioner submitted that the first respondent did not have the power to transfer the petitioner since, under Clause 18(2) of the Common Cadre Regulations, 2019, the authority can transfer the common cadre employee only on the ground of financial irregularities or mis management. In the present case, there is no allegation against the petitioner and the petitioner has been merely transferred by citing administrative reasons. The learned counsel further submitted that the persons against whom there are complaints pending and who have served for a long number of years are being retained in the same station and the petitioner is being singled out and transferred. Therefore, the learned counsel sought for the interference of the transfer order passed by the first respondent.

4. Per contra, Mr. L.P. Shanmuga sundaram, the learned counsel appearing on behalf of the respondent submitted that the first respondent is vested with the power of transfer under Clause 18(1) of the Common Cadre Regulations 2019 and considering the administrative exigencies, the first respondent has proceeded to pass the transfer order. The learned counsel further submitted that the petitioner has been working in the same Society from the year 2013 onwards and therefore, unless any malafides are attributed against the first respondent, this Court should not interfere with the transfer order, which has been passed well within the powers of the first respondent under the Common Cadre Regulations, 2019.

5. This Court has carefully considered the submissions made on either side and the materials available on record.

6. It is seen from the records and also from the submissions made on either side that the petitioner has been working as a Secretary in the second respondent Society from the year 2013 onwards. After the Common Cadre Regulation coming into force, it is only the first respondent who is vested with the powers insofar as secretary is concerned. The first respondent has taken into consideration the administrative exigencies and has passed the transfer order by virtue of the powers conferred under Clause 18(1) of the Common Cadre Regulations 2019. This case does not fall within the category of Clause 18(2) of the Common Cadre Regulations 2019, as contended by the learned counsel for the petitioner. Clause 18(1) of the Common Cadre Regulations is an independent power vested with the first respondent to pass such transfer order, considering the

administrative exigencies. This Court cannot interfere with such orders, unless the transfer order is beyond the authority of the first respondent or there was a malafide reason for passing such an order of transfer. This case does not fall within both those heads. In the considered view of this Court, this Court does not find any ground to interfere with the impugned order of transfer passed by the first respondent in proceedings Na.ka.3711/2019/Tho.Ve.Sa dated 31.01.2020. Accordingly, this Writ Petition is dismissed. No costs. Connected miscellaneous petitions are closed.

7. The learned counsel for the petitioner submitted that the petitioner has some domestic problems and, therefore, the petitioner can be allowed to make a representation to the first respondent to consider for re-transfer to the second respondent Society. The petitioner shall first join the transferred place and thereafter, she can make a representation to the first respondent and it is left open to the first respondent to consider the request made by the petitioner on its own merits.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman,
Common Cadre Committee,
Joint Registrar of Co-operative Societies,
Erode Region, Erode 638 009
- 2.The President,
AA 531, Kesarimangalam Primary Agricultural,
Co-operative Credit Society Ltd.,
Kuppichipalayam, Bhavani Taluk,
Erode District.

+1cc to the Special Government Pleader Sr.10835
+1cc to Mr.S.Doraisamy, Advocate Sr.10268
+1cc to Mr.L.P.Shanmugasundaram, Advocate Sr.10566

W.P.NO.3181 of 2020

pa[co]
srg 16/03/2020