

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2020

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THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.9507 of 2020

and

W.M.P.Nos.11602 & 11603 of 2020

S.Suresh Kumar

.... Petitioner

Vs.

1. The Principal Chief Conservator of Forests,
(Head of Forest Force),
Panagal Maligai,
Saidapet, Chennai-15.
2. The Joint Director,
O/o The Principal Chief Conservator of Forests,
(Head of Forest Force),
Panagal Maligai,
Saidapet,
Chennai-15.

3. The Wild Life Warden,
Megamalai Wild Life Division,
Theni.

4. R.Murugadevan

..... Respondents

Prayer: Petition filed under Article 226 of The Constitution of India praying for issuance of a Writ of Mandamus to call for the entire records pertaining to the proceeding W2/27345/2017 dated 04.07.2020 issued by the First respondent (issued by the Second respondent for and in the name of First Respondent) quash the same and direct the respondents to allow the petitioner to continue to serve as Superintendent in the present post and station.

For Petitioner .. Mr.M.Ravi

For Respondents.. Mr.M.Elumalai,
Government Advocate

ORDER

The matter is taken up through web hearing.

This Writ Petition has been filed, praying for the issuance of a Writ of Mandamus, to call for the entire records pertaining to the proceeding W2/27345/2017 dated 04.07.2020 issued by the First respondent (issued by the Second respondent for and in the name of First Respondent) quash the same and direct the respondents to allow the petitioner to continue to serve as Superintendent in the present post and station.

2. The case of the petitioner is that he was initially appointed as Junior Assistant in the Forest Department in 1999 and later was promoted as Assistant in 2005 and thereafter as Superintendent on 01.10.2015. According to him, he has rendered unblemished service and earned appreciation of his superiors. In the affidavit, it is also mentioned that the petitioner was subjected to periodical transfers in his career. The grievance of the petitioner in this Writ Petition is that by impugned proceedings, dated 4.07.2020, he was transferred from the Office of the Wildlife Warden Megamalai Wildlife Sanctuary, Theni to the Office of the Principal Chief Conservator of Forests (Head of Forest Force), Chennai and in his place, 4th respondent herein has been accommodated.

3. While assailing the impugned order of transfer, number of grounds have been raised inter alia including the latest Government Order in G.O.249 dated 21.05.2020 which was issued in view of Covid-19 situation. The grounds raised in the Writ Petition are prosaic, stereotyped and hackneyed which have become part of legal cliché in assailing the transfer orders, no matter whether such grounds are applicable to the case on hand at all or not. In this case, it is more relevant to see as to whether it is open to the petitioner herein to raise these grounds in the light of the facts to be revealed as under:

- a) When the matter came up for admission on 21.07.2020, Mr.M.Elumalai, learned Government Advocate, appearing for the respondents, on instructions, submitted that the petitioner himself has requested the respondents Office for his transfer to Chennai region and in consideration of his request, the present transfer order has been passed and unfortunately, the petitioner has come forward with the present Writ Petition, challenging the same.
- b) At this, Mr.M.Ravi, learned counsel appearing for the petitioner attempted to impress upon this Court that the request was made by the petitioner by his representation dated 27.05.2020 and since it was not acted immediately, the petitioner had reconciled to continue at the present station. Therefore, the Department was wrong in passing the transfer order. He submitted that this fact was mentioned

in the affidavit.

c) This Court is unable to appreciate this audacious argument advanced by the learned counsel despite the fact that the petitioner's request for transfer to Chennai was brought to the knowledge of this Court. A non-descript mention about the said fact fleetingly in the affidavit does not absolve the petitioner of attempting to play mischief upon this Court.

4. Be that as it may, the learned Government Advocate was directed to produce a hard copy of the request made by the petitioner for his transfer to Chennai and adjourned the case today, i.e. 22.07.2020.

5. When the matter was taken up for hearing, the learned Government Advocate produced the letter of request written by the petitioner to the first respondent, fervently and passionately requesting his transfer to Chennai for the welfare of his two daughters' education and their career progress. In spite of the fact that the petitioner himself was responsible for the present impugned proceedings, the learned counsel for the petitioner exhibited needless tenacity in pursuing the matter vigorously by consuming the precious judicial time of this Court. Despite warning from this Court that it is not open to the petitioner to challenge the transfer order, which was entirely passed on consideration of his request and to the place of his choice, the learned counsel insisted on exhausting his submissions centering on two grounds, viz., the latest G.O. issued by the Government in G.O.No.249, dated 21.05.2020 which provides for freezing of general transfers in view of pandemic situation and in case of dire necessity only, the Government can resort to transfer and in this case, the transfer was by the first respondent who was not competent authority as per the latest G.O.. The other ground is that 4th respondent has been accommodated in the place of the petitioner as if it is a mutual request. According to the learned counsel, for mutual transfer, different procedure is to be adopted. It is rather strange that the learned counsel was not willing to acknowledge the fact of the petitioner's request for transfer to Chennai even for a moment and kept attacking the impugned proceedings as if the petitioner was visited with the transfer suddenly and unjustly. By his truculent and disputatious conduct, the learned counsel needlessly has eaten the vital time of this Court, particularly in a curtailed functioning due to Covid-19 situation. More so, the conduct of the petitioner which is reflected through his counsel appears to be unwholesome to say the least and needs to be deprecated. When the petitioner himself has requested for his transfer to Chennai only on 27.05.2020 and thereupon, after consideration, the transfer order was passed by 1st respondent on 04.07.2020, the petitioner ostensibly, in order to serve his own

illegitimate ends, has chosen to challenge the order of transfer as if it suffers from legal infirmity and grave illegality.

6. The grounds raised in the Writ Petition questioning the order of transfer in the teeth of above facts, is a brazen attempt to hoodwink this Court and casting a slight on the judicial review of this Court, which the petitioner has taken for granted. Therefore, this Court is of the view that the petitioner has to suffer necessary consequences for being outrageously indiscreet trifling with the constitutional Court's jurisdiction in order to serve his own ends. Besides, the learned counsel's persistent submission in regard to the latest G.O.249 dated 21.05.2020 and questioning the mutual transfer procedure in the facts and circumstances of the case is too strange and baffling and is devoid of any sense. In any event, to sum up, it was quite appalling that the Court's time was consumed on unjust, mala fide and mischievous litigation.

7. In the above circumstances, this Court is constrained to impose an exemplary costs on the petitioner while deciding to dismiss the Writ Petition.

8. Accordingly, the Writ Petition stands dismissed as devoid of any substance and merits with costs of Rs.25,000/- (Rupees Twenty five thousand only) to be payable by the petitioner within a period of two weeks from the date of receipt of a copy of this order and the costs shall be deposited in favour of the Cancer Institute (WIA), Adyar, Chennai-600 036. Although this Court was initially inclined to direct the respondents to initiate disciplinary action against the petitioner for challenging the transfer order, in view of the above narrative, it refrains from doing so, as a matter of grace. The respondents are at liberty to proceed against the petitioner for recovery of the costs in case, the same is not remitted by the petitioner within the time stipulated. Consequently, connected WMPs are closed.

सत्यमेव जयते

Sd/-

Assistant Registrar (CS-VIII)

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Sub Assistant Registrar

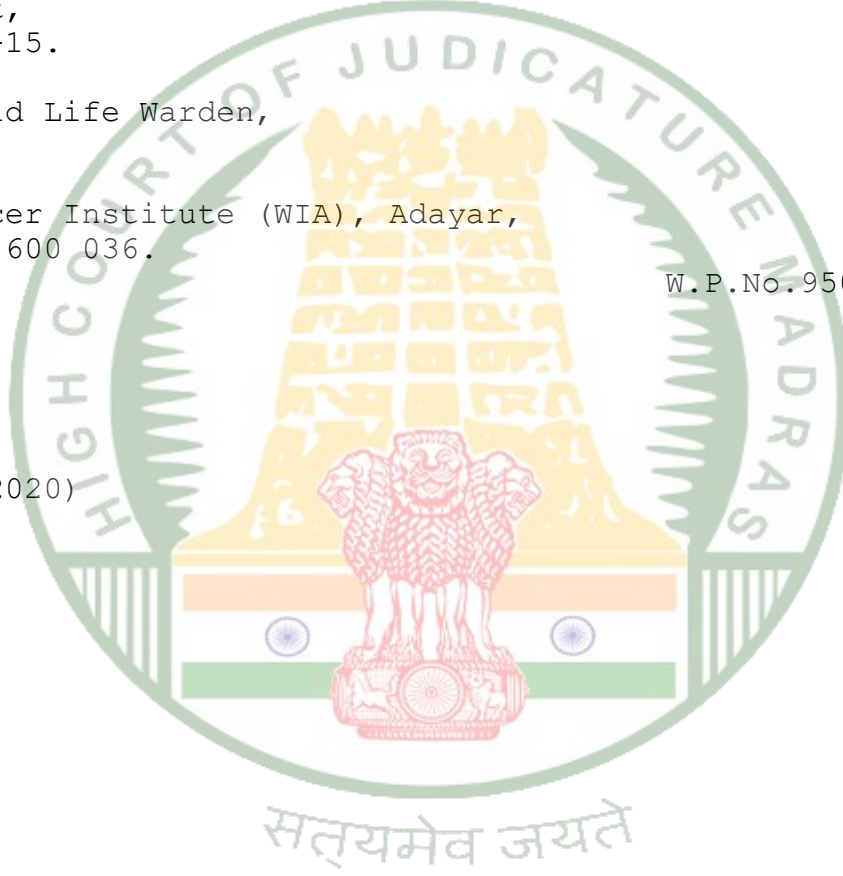
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To

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O/o The Principal Chief Conservator of Forests,
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Chennai-15.
3. The Wild Life Warden,
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4. The Cancer Institute (WIA), Adayar,
Chennai 600 036.

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PP (CO)
GN (25/09/2020)



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