

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.08.2020

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.10484 of 2020

and

W.M.P Nos.12741, 12742 and 12743 of 2020

1.J.Anbu
2.I.Manohar

...Petitioners

Vs.

1. The District Collector
(Development Section)
Chengalpet District,
Chengalpet.
2. Additional Director
(Panchayat, Audit),
Chengalpet District,
Chengalpet.
3. Block Development Officer
(Village Panchayat),
Lattur, at Pavunjur,
Chengalpet District

...Respondents

Prayer:

Writ Petition filed under Section Article 226 of the Constitution of India praying Writ of Certiorarified Mandamus, calling for the records and to quash the impugned transfer proceedings passed by the 3rd respondent herein in his Proceedings Na.Ka.No.985/2020/Aa.3, dated 26.06.2020 and further direct the 3rd respondent herein to allow the first petitioner herein to work as a Panchayat Secretary in the present station (I.e.) Vadapattinam and to allow the 2nd petitioner herein to work as a Panchayat Secretary in the present station (I.e.) Seevadi.

For Petitioners : Mr.P.Gurunathan

For Respondents : Mr.P.Sivashanmuga Sundaram
Special Govt.Pleader

O R D E R

The matter is taken up through web hearing.

2.This writ petition is filed with the following prayer:

"To call for the records and to quash the impugned transfer proceedings passed by the 3rd respondent herein in his Proceedings Na.Ka.No.985/2020/Aa.3, dated 26.06.2020 and further direct the 3rd respondent herein to allow the first petitioner herein to work as a Panchayat Secretary in the present station (I.e.) Vadapattinam and to allow the 2nd petitioner herein to work as a Panchayat Secretary in the present station (I.e.) Seevadi."

3.The writ petition is challenging the transfer order, dated 26.2.2020, transferring both the petitioners, who are employed as Panchayat Secretary in the respective Panchayats. The principal ground on which the challenge is made in this writ petition is that no reasons have been stated in the order of transfer dated 26.06.2020, which is impugned in the writ petition. In the absence of reasons in the transfer order, the same is bound to be interfered with by this Court, as the Rules governing the transfer mandate that reasons need to be stated for administrative transfers.

4.Notice was ordered in the writ petition and Mr.P.Sivashanmuga Sundaram, learned Special Government Pleader, entered appearance for the respondents.

5.When the matter is taken up for hearing today, the learned counsel appearing for the petitioners submitted that in regard to the first petitioner, he is giving up the case, as he had accepted and joined in the transferred place. As regards the second petitioner is concerned, he submitted that G.O.Ms.No.72, dated 09.07.2013, clearly stipulates in paragraph No.11 that transfer in regard to the petitioners' service shall be made only on administrative grounds supported by valid reasons and after proper enquiry by the authorities concerned. He would particularly rely on para 11 of the G.O, which reads as under:

"11.Transfer (1) Transfer of a person holding the post shall be made only on administrative grounds supported by valid reasons and after proper enquiry by the authorities concerned."

The learned counsel would draw the attention of this Court to the impugned transfer order dated 26.02.2020, wherein nothing is mentioned as to what necessitated the transfer on administrative grounds.

6.The learned Special Government Pleader appearing for the respondents infact acknowledged the Rule position, but however, he attempted to submit that there might have been some reason for the impugned transfer. However, he would also accept that as far as the impugned transfer is concerned no reasons have been stated, as per the requirement of the Rule position.

7. In consideration of Rule 11 of the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013, this Court is of the view that the transfer order is unsustainable in law. When Rule 11 mandates stipulation of reasons, followed by enquiry by the authorities concerned, mere mentioning of expression "administrative reason" in the transfer order does not conform to the requirement of the Rule. Therefore, the order of transfer is per se illegal and has to be set aside. The objective of the Rule palpably is to ensure that transfers are free from whimsicalities and arbitrariness and such objective cannot be undermined by ignoring the requirement of the Rule.

8. In the said circumstances, the impugned Proceedings in Na.Ka.No.985/2020/Aa.3, dated 26.06.2020, is hereby set aside only insofar as the second petitioner is concerned and the writ petition is allowed. The Writ Petition stands dismissed in respect of the first petitioner is concerned. No costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The District Collector
(Development Section)
Chengalpet District,
Chengalpet.
2. Additional Director
(Panchayat, Audit),
Chengalpet District,
Chengalpet.
3. Block Development Officer
(Village Panchayat),
Lattur, at Pavunjur,
Chengalpet District.

+1 cc to Mr.P.Gurunathan, Advocate Sr.No.27428
+1 cc to the Government Pleader, Sr.No.27515

W.P.No.10484 of 2020

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rr ii (11/09/2020)