



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.07.2020**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.7216 of 2020

and

W.M.P(MD)Nos.6652 & 6655 of 2020

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M.Angel

...Petitioner

-Vs-

1.The Director,

Department of Information and Public Relations,
Secretariat,
Fort St. George,
Chennai.

2.The Public Relation Officer,

O/o.Information and Public Relations,
Collectorate,
Thoothukudi District.

...Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order of transfer issued by the first respondent in his proceedings Nadavadikai No.4566/Nir.3.1/2020 dated 13.05.2020 and the consequential relieving order issued by the second respondent in his proceedings Sa.Mo.Aanai No.112/Samathoo A/2020, dated 13.05.2020 and quash the same as illegal and pass such further or other orders.

For Petitioner : Mr.M.Jerin Mathew

For Respondents : Mrs.S.Srimathy,

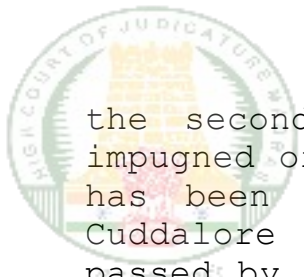
Special Government Pleader

ORDER

The prayer sought for in this writ petition is for a Writ of Certiorari, calling for the records relating to the impugned order of transfer issued by the first respondent in his proceedings Nadavadikai No.4566/Nir.3.1/2020 dated 13.05.2020 and the consequential relieving order issued by the second respondent in his proceedings Sa.Mo.Aanai No.112/Samathoo A/2020, dated 13.05.2020 and quash the same as illegal.

2. Heard Mr.M.Jerin Mathew, learned counsel appearing for the petitioner and Mrs.Srimathy, learned Special Government Pleader appearing for the respondents.

3. The petitioner is working as Photographer at the office of



the second respondent for the past three years. Through the impugned order passed by the first respondent dated 13.05.2020, he has been transferred from Tuticorin Public Relation Office to Cuddalore Public Relation Office and pursuant to the said order passed by the first respondent, the second respondent on the same day passed a consequential order relieving the petitioner in the afternoon on 13.05.2020. Challenging the said orders passed the first and second respondents, dated 13.05.2020, the petitioner has moved this writ petition.

4.The learned counsel appearing for the petitioner would submit that though nothing has been reflected in the impugned order, the petitioner is of the firm view that this impugned order of transfer is nothing but a punitive order. As the first respondent after getting some communication or input from the second respondent, passed this order of transfer from Tuticorin to Cuddalore in order to punish the petitioner. Therefore, the said order cannot be treated as a mere transfer order or order of transfer simpliciter, but it shall be construed as an order of transfer with punitive nature. Though malafide has been alleged during the argument advanced by the learned counsel for the petitioner, no such materials have been brought before this Court, as the learned counsel for the petitioner himself fairly submitted that the respondents have not been named as respondents in their personal capacity to establish the malafide.

5. The learned Special Government Pleader would submit that the petitioner had been working at the present station i.e., Tuticorin for the past more than three years. Therefore, the present transfer order transferring her from Tuticorin to Cuddalore cannot be construed to be vengeance against her nor a punitive order. Merely, because a report has been received from the first respondent and during the same day of the first respondent's impugned order, the second respondent has passed the relieving order, it cannot be presumed that the transfer order is a punitive order.

6. The learned Special Government Pleader in this regard would further submit that nothing has been stated in that nature in the impugned orders. Therefore, the said order can only be construed as a transfer, that too, after completion of three years in the present station. Therefore, it should only be treated as a transfer order on administrative reason and therefore, the same need not be interfered with.

7. I have considered the submissions. As has been rightly pointed out by the Special Government Pleader appearing for the respondents, on a reading of the contents made in the orders passed by the first and second respondents, which are impugned



herein, this Court is not able to find anything to come to the conclusion that the impugned orders of transfer, are punitive in nature.

8. Inter-Departmental or Intra-Departmental communications or reports, are routine affair and that cannot be a ground to challenge any order in the Court of law stating that those intra-departmental communication, since have been made by the two officials behind the back of the employee any decision taken by the employer to transfer the employee can only be construed as a malafide transfer or punitive transfer. If this kind of interpretation is sought to be given in every transfer order, then the administrative exigencies cannot be met effectively by the employer, which is a paramount consideration of any of the organisation, especially, in Government service, where, all Government employees are expected to do the service to the society, which is a sovereign function of the State.

9. Moreover, it is an admitted case that the petitioner has been working for more than three years in the present station at Tuticorin. Therefore, it cannot also be construed as an unjustifiable transfer interfering during the middle of the year between two routine transfer period. As has been fairly submitted by the learned counsel for the petitioner, since no malafide have been alleged and in this regard the respondents have not been named in the personal capacity in order to allege malafide and prove the same, even that ground is not available in the petition.

10. In view of the above, the transfer orders cannot be interfered with easily and the petitioner cannot successfully challenge the same for any valuable ground in the eye of law.

11. For all these reasons, this Court is not inclined to grant any order in this writ petition and it deserves to be rejected. Accordingly, it is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

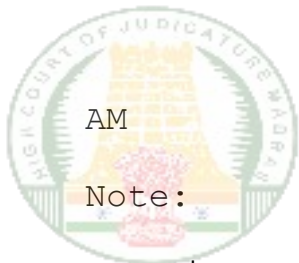
Sd/-

Assistant Registrar (AD II)

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Sub Assistant Registrar(CS)



AM

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Director,
Department of Information and Public Relations,
Secretariat,
Fort St. George,
Chennai.

2.The Public Relation Officer,
O/o.Information and Public Relations,
Collectorate,
Thoothukudi District.

Order made in
W.P. (MD) No. 7216 of 2020

Dated:
06.07.2020

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