



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.09.2020

CORAM :

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.A. (MD) .No.713 of 2020

and

C.M.P. (MD) .No.4210 of 2020

Dr.Paramasivam

... Appellant/Petitioner

Vs.

1.State of Tamil Nadu

represented by Principal Secretary to Government,
Department of Agriculture,
Ft. St. George,
Chennai.

2.The Vice Chancellor,

The Tamil Nadu Agricultural University,
Coimbatore 641 041.

3.The Registrar,

The Tamil Nadu Agricultural University,
Coimbatore 641 041.

4.The Head of the Department,

Department of Soil Science & Agri Chemistry,
Agricultural College and Research Institute,
Killikulam, Vallanadu,
Thoothukudi District.

... Respondents/Respondents

Prayer: The Writ Appeal is filed under Clause 15 of Letters Patent Act, against the order passed by this Court in W.P.(MD).No.7697 of 2020, dated 23.07.2020.

Prayer in WP(MD). 7697/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records relating to the impugned transfer order passed by the 3rd respondent in NO. A1/5753-VIRK2020 dt. 19.06.2020 and the consequential relieving order passed by the 4th respondent in No. P and H/SS and AC/ AC and RI, KKM/Dr.M.P/Asst. Prof. (SSand AC)/Relieving order/2020 dt. 20.06.2020 quash the same as arbitrary and unconstitutional.



For Appellant : Mr.R.Vijayakumar
For R1 : Mr.K.P.Krishnadoss
Special Government Pleader
For R2 & R3 : Mr.A.Thirumurthy

J U D G M E N T

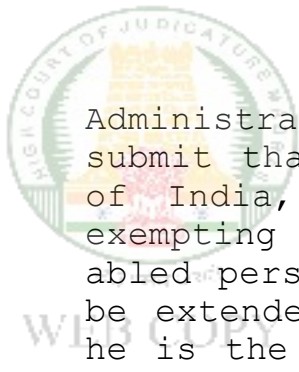
(Judgment of the Court was delivered by **M. SATHYANARAYANAN, J.**)

The appellant is the writ petitioner and he made a challenge to the order of transfer dated 19.06.2020, passed by the fourth respondent, by filing W.P.(MD).No.7697 of 2020 and the said writ petition, after contest came to be rejected, vide impugned order dated 23.07.2020, challenging the same, the present writ appeal is filed.

2. The writ petitioner is the father of the special child viz., Swathika, aged about 14 years and as per the certification given by the concerned Department of Government of Tamil Nadu, she is suffering the disability of 70% mental retardation and he is her caretaker. The petitioner joined the service of the third respondent College as an Assistant Professor on 04.01.2010, and continued to work as Assistant Professor in the Department of Soil Science and Agriculture Chemistry in the fourth respondent College and Research Institute and admittedly, he is continuing in the capacity for ten years. The fourth respondent has passed the impugned order of transfer, on administrative reasons. It was contended by the petitioner by placing reliance upon the Letter No.19042/91-3 of Personnel and Administrative Reforms Department, dated 14.05.1991, that in the light of the fact that the appellant/writ petitioner being the caretaker of the special child, he may be retained in the same place or accommodated in the nearby, so as to enable him to take the child for further treatment at Chitra Tirunal Institute for Medical Sciences and Technology, Trivandrum.

3. The learned Judge has taken note of the factual aspects and the legal position, found that the writ petitioner continued in the station for nearly ten years, without being subjected to any transfer and in respect of the post in which he has been transferred, is a special sanctioned post sanctioned by the Indian Council of Agricultural Research (ICAR) for some research purposes, for want of qualified personnel, it would be kept vacant. The learned Judge has also taken note of the legal position that the transfer is an inevitable condition of service and taken into consideration all the facts and circumstances and legal position, dismissed the writ petition, thereby sustained the impugned order of transfer.

4. The learned counsel appearing for the appellant has drawn the attention of this Court to G.O.(Ms.)No.107 of Personnel and



Administrative Reforms(S) Department, dated 03.09.2020 and would submit that the Department of Personnel and Training, Government of India, in its Office Memorandum, have issued instructions exempting a Government employee, who is a caregiver of differently abled persons and in the light of the said G.O., benevolence may be extended to the appellant/writ petitioner for the reason that he is the caretaker of the special child and that she has to be taken to Chitra Tirunal Institute for Medical Sciences and Technology, Trivandrum for periodical and follow up review. It is also pleaded by the learned counsel for the petitioner that since in the nearby places, vacancies are available, the appellant/writ petitioner may be accommodated.

5. Mr.K.P.Krishnadoss, learned Special Government Pleader accepts notice on behalf of the first respondent and Mr.A.Thirumurthy, learned counsel accepts notice on behalf of the respondents 2 to 4 and would submit that the said G.O.(Ms.)No.107 of Personnel and Administrative Reforms(S) Department, dated 03.09.2020, may not have any application in the case of the appellant/writ petitioner for the reason that as per Paragraph No.4 of the said G.O., the factor being the caretaker of the special child, would be a valuable reason for retaining in the same station after five years and admittedly, the petitioner continues in the capacity as Assistant Professor for nearly 10 years and odd and in the light of the fact that the place in which he has been transferred, viz., Vrinjipuram, Vellore District is a special sanctioned post, which requires the experts, the petitioner has been transferred on administrative reasons and in the absence of challenge to the same on valuable grounds, the order of transfer would not be interfered by this Court and prays for dismissal of this writ petition.

6. This Court has carefully considered the rival submissions and perused the materials placed before this Court.

7. It is an admitted fact that the petitioner is working as an Assistant Professor, in the present station for nearly ten years and odd and taking into consideration of the fact that for the administrative reasons and exigencies, he has been transferred to Vrinjipuram at Vellore District.

8. No doubt, the petitioner is the caretaker of the said special Child viz, Swathikaa, aged about 14 years and she is being given regular treatment at Chitra Tirunal Institute for Medical Sciences and Technology, Trivandrum.

9. A perusal of Page No.12 of the typed set of papers would disclose that as per the clinical note, issued by the NM OPD, Neurology of the said Institute, the special child is to be



produced for review in EPI -1 after one year with SEEG and the said date would fall on 10th of March 2021.

10. G.O.(Ms.)No.107 of Personnel and Administrative Reforms(S) Department, dated 03.09.2020, relied on by the learned counsel for the petitioner may not also come to his aid, in the light of Paragraph No.1 of the said G.O. No doubt, the case of the petitioner requires some sympathetical consideration. But, in the light of the fact that he continues in the present station for over a decade and that in the light of administrative exigencies, he has been transferred to Vrinjipuram at Vellore District and also in the light of the well settled legal position as to the grounds available for making a challenge to the order of transfer, this Court is unable to come to the aid of the writ petitioner.

11. In the result, the Writ Appeal is dismissed, confirming the order dated 23.07.2020, passed in W.P.(MD).No.7697 of 2020. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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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 Principal Secretary to Government,
Department of Agriculture,
Ft. St. George,
Chennai.

2.The Vice Chancellor,
The Tamil Nadu Agricultural University,
Coimbatore 641 041.



3.The Registrar,
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4.The Head of the Department,
Department of Soil Science & Agri Chemistry,
Agricultural College and Research Institute,
Killikulam,
Vallanadu,
Thoothukudi District.

+1 CC to SGP (SR-17506[F] dated 21/09/2020)

+1 CC to Mr.A. THIRUMURTHY, Advocate (SR-17630[F] dated
21/09/2020)

W.A. (MD) .No.713 of 2020
18.09.2020

SJ(CO)
KM (07.10.2020) 5P 7C