



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) .No.20924 of 2015

and

M.P. (MD) No.2 of 2015

and

W.M.P. (MD) No.4866 of 2016

V.Subramanian

... Petitioner

-Vs-

1.The State of Tamil Nadu,
Represented by the
Secretary to Government,
Home Department,
Secretariat, Chennai.

2.The Superintendent of Police,
Thanjavur District,
District Police Office,
Thanjavur.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned transfer order, dated 02.11.2015 issued by the second respondent in D.O.No.1482 of 2015 and Rc.No.A1/43138/2015 and quash the same.

For Petitioner : M/s.T.Banumathy

For Respondents : Mr.G.Arjunan
Government Advocate

ORDER

The transfer and posting of the petitioner, who was holding the post of Head Constable, is under challenge in the present writ petition.

2.During the pendency of the writ petition, the writ petitioner was further transferred. The reason for transfer is narrated in Paragraph No.4 of the counter, which is extracted hereunder:-

"...4.It is submitted that on 02.09.2015 one



M.Viyathakumarn, Inspector of Police, Telecommunication Branch, Nagapattinam residing at No.54, Venkateswara Nagar West, Periya Pudupattinam, Thanjavur Taluk, appeared before the Superintendent of Police, Thanjavur District herein second respondent and preferred a petition that an illegal contact is prevailing between his wife Tmt.Senthilvadivu working as an Assistant at Office of the Deputy Inspector General of Police, Thanjavur Range, Thanjavur and one Tr.V.Subramanian, working as Head Constable No.1350 at Nachiarkoil P.S. herein petitioner for the past so many years. They are freely moving in Motor cycle in Thanjavur and hence he is mentally affected. Though he warned them several times they had not changed their attitude. He further added that now the petitioner is threatening him with dare consequences. Hence, he was requested to take action against both of them and to provide protection to his life and belongings. The above petition was endorsed by the second respondent to Additional Superintendent of Police, Prohibition Enforcement Wing, Thanjavur for conducting enquiry and report. The Additional Superintendent of Police, Prohibition Enforcement Wing, Thanjavur, who enquired into the petition sent his enquiry report dated 24.09.2015 in which he concluded that it is true that the petitioner and above said Tmt.Senthilvadivu are having illegal intimacy. Further, he has stated that though awaring the fact of on enquiry was going on, on the night of 24.08.2015 at above 08.50 hrs., the petitioner went to near the house of Tmt.Senthilvadivu in a motor cycle bearing Registration No.TN 49 H 4477 to drop the above said Tmt.Senthilvadivu. When the husband of Tmt.Senthilvadivu and the residents of the locality tried to catch him, the petitioner escaped from there. Hence, he has requested to take disciplinary action against them.."

3.Transfer is an incidental to service more so a condition of service. No writ can be entertained against the order of administration of the transfer in a routine manner. An order of transfer can be entertained only if such an order of transfer is issued without jurisdiction or on *mala fide* intention. However, the *mala fide* ground is to be established by implicating the authorities in person, against whom, such an allegation is raised. In the absence of any one of this ground, an order of transfer cannot be interfered with by the Courts. In the present writ petition, the petitioner is working as Head Constable Uniformed Services. Thus, the transfer of administration grounds are inevitable or imminent. In the present case, the writ petitioner was once again transferred after the impugned order of transfer.



4.This being the factum, the relief as such sought for in the present writ petition deserves no further consideration and accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sjj

To

1.The Secretary to Government,
State of Tamil Nadu,
Home Department,
Secretariat, Chennai.

2.The Superintendent of Police,
Thanjavur District,
District Police Office,
Thanjavur.

+1 CC to M/s.GP (SR-25771[F] dated 16/12/2020)

W.P. (MD) .No.20924 of 2015
14.12.2020

NA (CO)
KK (29.12.2020) 3P 4C