



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2020

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD).No.22752 of 2015
and M.P(MD).Nos.1 and 2 of 2015
and W.M.P(MD).No.1003 of 2016

S.Kannan

... Petitioner

-Vs-

1.The Engineer-in-Chief (General)

Water Resource Department,

PWD Campus, Chepauk, Chennai 600 005.

2.The Director,

Irrigation Management Training Institute,

Cauvery Valagam, Thuvakudi,

Trichy 620 015

Trichy District.

3.Murugadas

Junior Assistant (TEXCO Contract)

Irrigation Management Training Institute,

Cauvery Valagam, Thuvakudi, Trichy 620 015

Trichy District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent through his Office Order No.A2/DR/2015 dated 07.12.2015 quash the same as far as the petitioner is concerned and consequently direct the second respondent to permit the petitioner to continue his service in the present position in Tapal Section.

For Petitioner : Mr.L.Shaji Chellan

For Respondents : Mr.D.Muruganandham
Additional Government Pleader
for R1 & R2

for R3 No appearance

ORDER

The order of transfer issued by the second respondent in proceedings, dated 07.12.2015 transferring the writ petitioner to Thiruvarur is under challenge in the present writ petition.



2.Already five years lapsed.

3.The learned Additional Government Pleader appearing on behalf of the respondents 1 and 2 relying on the counter states that, due to administrative reasons, transfer of order is issued. Para 6 of the counter filed by the second respondent reads as under:

6.the writ petitioner was directed by the second respondent in Letter No.A2/DR/2015 dated 07.12.2015 to collect the registers, filed and other documents from the IMTI (ARP Unit), Thiruvarur to the second respondent office as the records from the office are going to be computerized in digital form. The writ petitioner is an employee under the second respondent and he was only directed to bring upon the records from the IMTI (ARP Unit), Thiruvarur and he was not transferred to the IMTI (ARP Unit). Due to vacancy in the post, the third respondent was posted by the second respondent only on temporarily basis. The second respondent acted in accordance with law and considering the facts and circumstances passed an order dated 07.12.2015. This order does not transfer the writ petitioner but only temporarily diverted him to the IMTI (ARP Unit), Thiruvarur for bringing upon the records. As the writ petitioner was worked in the IMTI (ARP Unit), Thiruvarur and also in charge of maintaining the records, the second respondent diverted the writ petitioner as he got well knowledge about the records and filed available in the IMTI (ARP Unit), Thiruvarur. The allegation made that he was transferred to far away place is false. Earlier the writ petitioner has filed writ petition in W.P (MD)No.14341 of 2011 and Hon'ble Court dismissed the said writ petition.

4.The transfer order was made transferring the petitioner from Trichy to Thiruvarur. The reason is on administrative grounds. The learned counsel for the petitioner states that the petitioner was the Vice-President of Irrigation Management Training Institute Staff Association and they were raising certain issues against the management. Therefore, transfer order was issued on certain personal vengeance. It is stated that the distance between Trichy and Thiruvarur would take three hours travel. Thus, the hardship would be caused.

5.The statement regarding the distance furnished in the affidavit filed by the petitioner can never be accepted. An employee is bound to work in a station, where he is transferred in the interest of the institution and public interest. The Employees Association Office bearers are not exempted from service conditions



including the transfer.

6. Transfer is an incidental to service, more so a condition of service. The writ against the administrative order of transfer can never be entertained. Only in the event of establishing *malafide* allegations, for which, necessary parties in person is to be added as respondents. In the absence of any such illegality, order of transfer cannot be challenged in a writ petition nor such writs are entertainable.

7. The writ petition was filed in the year 2015 and an order of interim stay was granted. Pursuant to the interim order, the writ petitioner is continuously working for more than five years from the date of writ petition and prior to filing of the writ petition, he was also working in the same station at Trichy. It is not in the interest of the administration. Efficient administration is to be ensured by the authority concerned and therefore, the respondents are at liberty to take a decision in the matter of transfer genuinely on administrative grounds. Undoubtedly, transfer cannot be used as a tool to punish an employee. However, the interest of administration requires transfer of employees periodically, in order to maintain the efficient and effective public administration.

8. In view of the fact that the petitioner is continuing in the same post for several years by virtue of the interim order, no further consideration is required and accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-II)

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/ /2021

Sub Assistant Registrar(CS)

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To

1. The Engineer-in-Chief (General) Water Resource Department,
PWD Campus, Chepauk, Chennai 600 005.

2. The Director,
Irrigation Management Training Institute,
Cauvery Valagam, Thuvakudi, Trichy 620 015, Trichy District.

+1 CC to Mr. L. SHAJI CHELLAN, Advocate SR.No. 25803

+1 CC to Mr. Special Government Pleader, SR.No. 25775

W.P. (MD).No.22752 of 2015

15.12.2020

SSS(CO)

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