

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.Nos.39606 of 2005
and 3506 of 2006

P.Narayanan

... Petitioner

-Vs-

1. The Secretary to Government
Personnel & Administrative Reforms Department,
Secretariat,
Chennai - 600 009.
2. The Secretary
Tamil Nadu Public Service Commission,
Chennai - 600 002.
3. The Secretary to Government
Finance Department,
Secretariat,
Chennai - 600 009.
4. The Under Secretary to Government
Labour and Employment (OP) Department,
Secretariat, Chennai - 600 009.
5. T.Balasubramanian
Joint Secretary to Government,
Finance (OP) Department,
Secretariat, Chennai - 600 009.
6. The Vigilance Commissioner
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai - 600 009.
7. The Chief Secretary to Government
Government of Tamil Nadu,
Fort St. George,
Secretariat,
Chennai - 600 009.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of

India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent comprised in his proceedings in Letter No. 65684/U/2004-6, dated 01.12.2005 and quash the said proceedings of the first respondent, dated 01.12.2005 and consequently to realloot petitioner to Finance Department with effect from 27.10.1993 and give all consequential benefits.

[Prayer amended as per order of Court dated 09.03.2006 made in W.P.M.P.No.43430 of 2005]

W.P.No.3506 of 2006

P.Narayanan

... Petitioner

-Vs-

1. The Secretary to Government
Personnel & Administrative Reforms Department,
Secretariat,
Chennai - 600 009.
2. The Secretary
Tamil Nadu Public Service Commission,
Chennai - 600 002.
3. The Secretary to Government
Finance Department,
Secretariat,
Chennai - 600 009.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the concerned records of the first respondent and quash the same and consequently direct the first respondent to transfer the petitioner to Finance Department with effect from 27.10.1993 with all consequential monetary and other service benefits as has been done in the case of the petitioner's junior Tmt.V.Vimala who was appointed as Typist on 28.10.1993 along with the petitioner and allotted to Personal and Administrative Reforms Department and transferred to Finance Department.

For Petitioner : Mr.M.Gnanasekar in both the writ petitions

For Respondents : Mr.K.Magesh Spl Govt Pleader
for R1 to R3 and R7
Mr.Karthik Raja Standing
Counsel for R2

O R D E R

Since in both the writ petitions, the issue raised by the petitioner is one and the same, with the consent of the learned counsel appearing for both sides, both these writ petitions were heard together and are disposed of by this common order.

2. In W.P.No.39606 of 2005, originally the prayer sought for is to issue a writ of mandamus, directing the 7th respondent to take suitable action against respondents 3 and 6 for having allowed the fifth respondent to deal with the petitioner's file regarding his re-allotment to Finance Department inspite of his specific complaint, dated 28.10.2005 and to take action against the fifth respondent.

3. However, subsequently, by order, dated 09.03.2006 made in W.P.M.P.No.43430 of 2005, the prayer got amended and according to the amended prayer, it is for a writ of certiorarified mandamus, to call for the records in Proceedings in Letter No.65684/U/2004-6, dated 01.12.2005 and quash the said proceedings of the first respondent and consequently realLOT the petitioner to Finance Department with effect from 27.10.1993 and to give all consequential benefits.

4. In W.P.No.3506 of 2006, the prayer sought for is for a writ of certiorarified mandamus calling for the concerned records of the first respondent and quash the same and consequently direct the first respondent to transfer the petitioner to Finance Department with effect from 27.10.1993 with all consequential monetary and other service benefits as has been done in the case of the petitioner's junior Tmt.V.Vimala who was appointed as Typist on 28.10.1993 along with the petitioner and allotted to Personal and Administrative Reforms Department and transferred to Finance Department.

5. Therefore, in both the writ petitions, the impugned orders respectively are dated 01.12.2005 and 29.12.2005 issued by the same respondent, i.e., the Deputy Secretary to Government, Personnel and Administrative Reforms Department, Secretariat, Chennai - 9. Therefore, on behalf of the first respondent, i.e., Secretary to Government, Personnel and Administrative Reforms Department, the Deputy Secretary passed the said order on behalf of the Government, thereby the plea raised by the petitioner to realLOT the petitioner from Labour and Employment Department to Finance Department was rejected.

6. Heard Mr.M.Gnanasekar, learned counsel appearing for the petitioner, who would submit that, the petitioner having successfully come out with the recruitment conducted by the Tamil Nadu Public Service Commission, he was selected as Typist

and he reported for duty as Typist in Agricultural Department on 27.10.1993. Immediately after joining in the said Department, he submitted two representations through proper channel, one addressed to the Secretary to the Government, P & AR Department and another to the Secretary to the Government, Finance Department, wherein, he sought for allotment to the Finance Department.

7. The said request has been rejected through the Government Letter, dated 30.02.1994. However, not satisfied with the same, he continuously made request for allotting him to Finance Department.

8. Subsequently also, similar request were made by the petitioner, where the petitioner sought for allotment to the Finance Department. The said request of the petitioner by way of legal notice, dated 28.10.2005 was considered and decided by the first respondent on 25.11.2005, where it was rejected with the following reasons :

"I am directed to state that your request for allotting you from one unit (Labour and Employment Department) to Finance Department, cannot be complied with, as there is no provision for such allotment."

9. Subsequently also, the petitioner seems to have filed a writ petition before this Court in W.P.No.34301 of 2005, where he seeks for a direction by way of mandamus from this Court to direct the respondent therein to consider the representation of the petitioner, dated 06.10.2005 and pass orders thereon on merits and in accordance with law. In that writ petition, a direction was given by this Court by order, dated 25.10.2005 to dispose of the representation of the petitioner, dated 06.10.2005.

10. Pursuant to the said direction issued by this Court, the representation of the petitioner, dated 06.10.2005 was considered and disposed by the first respondent, vide his order, dated 29.12.2005, where also the similar prayer sought for by the petitioner to reallocate him to the Finance Department has been turned out by setting the following reason :

"I am directed to state that your representation, dated 06.10.2005 requesting your reallocation to the Finance Department has been examined carefully on merits and in accordance with Law as directed by the Hon'ble High Court, Madras.

2. As per rule 11-A of the Special Rules for Tamil Nadu Secretariat Service as

introduced in G.O. Ms.No.30, Personnel and Administrative Reforms (D) Department, dated 28.1.94, the persons in service in one unit as on 28.1.94 shall have no claim for allotment or reallotment to Finance or Law Unit.

3. Your first representation for transfer to the Finance Department made on 10.3.94 was examined as per rules and your request was not accepted on the ground that the Finance Department is a separate unit for which transfer from one unit is not permissible as per rules. Your subsequent representation dt. 28.9.2004 was also not accepted for the same reason. No petition earlier to the petition dated 10.3.94 was received from you and as such your claim that you have given representation on the very date of appointment in Secretariat on 27.10.93 is not correct.

4. Your request for transfer to the Finance Department made in your representation dt. 6.10.2005 is not supported with any rule. Instead, the above said rule 11-A prohibits transfer of the persons in one unit to the Finance Department. Therefore, your request to transfer to the Finance Department is not based on merits or in accordance with rules, and as such, your request is not feasible of compliance."

11. Challenging these two orders passed by the Deputy Secretary to Government, P & AR Department, on behalf of the State Government, the present writ petitions have been filed.

12. The learned counsel appearing for the petitioner in this context would submit that, the petitioner is entitled to get the allotment in the Finance Department and despite the repeated request made in this regard, every time the same has been turned out and in these two impugned orders, which are under challenge in these writ petitions, the reasons stated by the respondent that, there is no rule provided for such inter-departmental transfer especially by quoting Rule 11A may not be justifiable as the petitioner has made such request at the initial stage itself. Therefore, the learned counsel appearing for the petitioner seeks indulgence of this Court to issue a writ of certiorarified mandamus as prayed for in both these writ petitions.

13. However, Mr.K.Magesh, learned Special Government Pleader appearing for the respondent State Government, on instruction, would submit that, the request made by the petitioner for inter-departmental change by way of allotment, that too specifically to the Finance Department was not permissible in view of the rule position, which has been stated atleast in the impugned order, dated 29.12.2005, which is under challenge in W.P.No.3506 of 2006.

14. The learned Special Government Pleader would also submit that, subsequently the petitioner had been allotted to Municipal Administration and Water Supply Department, where he has been subsequently given promotions and he has now gone to the stage of Commissioner of a Municipal Corporation, where he is presently working as Commissioner of Avadi Municipal Corporation.

15. The said factor as has been stated by the learned Special Government Pleader is not controverted by Mr.M.Gnanasekar, learned counsel appearing for the petitioner.

16. These factors would disclose that, the petitioner even though initially sought for inter-departmental transfer and seek allotment to the Finance Department and those request have been turned out in the impugned orders in both the writ petitions, subsequently, much water has been flown under the bridge, as the petitioner settled in the Municipal Administration and Water Supply Department, where he has got promotion to various categories and now he reached the stage of Commissioner of Municipal Corporation and peacefully working in that department. Therefore this Court feel that, the very intensity and the purpose of challenging the impugned orders have been completely washed out. Therefore, on that reason itself, without going into the merits of the issue raised in these writ petitions, this Court feels that, the challenge made in these writ petitions can be given a quietus, where the petitioner can peacefully work in the present department, i.e., the Municipal Administration and Water Supply Department, where, till his superannuation can reach further heights by getting regular promotions.

17. In that view of the matter, as the result of the challenge made in these two writ petitions have virtually become infructuous, this court feel that, no further issues are pending for adjudication before this Court in these two writ petitions.

18. In view of the above, both these writ petitions are disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

tsvn

To

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7. The Chief Secretary to Government
Government of Tamil Nadu,
Fort St. George,
Secretariat, Chennai - 600 009.

+cc to Government Pleader SR.No.11263

+cc to M/S.M.Gnanasekar Advocate SR.No.10588

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PL(CO)

baf 04/05/2021