

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDER RESERVED ON 18 .12.2020

ORDER DELIVERED ON 05.02.2021

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.NOS.13078, 13079 & 13084 OF 2020

C.Suthagar ... Petitioner in W.P.No.13078/2020
D.Sheelarani ... Petitioner in W.P.No.13079/2020
D.Dhanalakshmi ... Petitioner in W.P.No.13084/2020

Vs

1. The Principal Secretary/
Commissioner of Revenue Administration,
Govt. of Tamilnadu,
Chepauk,
Chennai - 600 005.
2. The Collector of
Villupuram District,
Collector Office Road,
Moovendar Nagar,
Villupuram - 605 202
3. The Collector of
Kallakruichi District,
Kesavalu Nagar, VOC Nagar,
Kallakurichi - 606 202 ... Respondents in all the W.Ps.

Common Prayer:

Writ Petitions filed under Article 226 of the Constitution of India praying Writ of Mandamus to direct the 1st respondent to cancel the transfer order dated 30.11.2019 of the 2nd respondent and to transfer the petitioners to Villupuram District, from where they were transferred.

For Petitioners : Mr.S.T.Varadarajulu
For Respondents : Mr.J.Pothiraj,
Special Government Pleader

C O M M O N O R D E R

The matter is taken up through web hearing.

In all these writ petitions, the impugned transfer orders are under challenge, passed by the 2nd respondent, transferring the petitioners to the bifurcated District viz., Kallakurichi.

2. The facts of the case briefly are that the Government vide G.O.Ms.No.425 dated 12.11.2019 bifurcated Villupuram District into two Districts viz., Villupuram and Kallakurichi Districts. According to these petitioners, the 1st respondent issued guidelines on 22.11.2019 as to how the staff must be posted to the bifurcated Districts after obtaining consent from the staff. According to these petitioners, they have not given their consent for posting them to the newly formed District, still they have been transferred in violation of the guidelines dated 22.11.2019. According to the petitioners, the transfer orders have been indiscriminately issued by posting the senior revenue staff like the petitioners and many of the juniors being adjusted in the Villupuram District itself. Challenging the transfer orders, the petitioners are before this Court.

3. In response to the notice, individual counter affidavits have been filed. In the counter affidavit, detailed averments have been mentioned as to how adjustments of staff have taken place between the two Districts and how proportionate vacancies need to be maintained in respect of the bifurcated Districts. Paragraph Nos. 6(B), 6(C) and 6(D) of the counter have clearly explained the procedures and the method followed for transferring the officials which are extracted hereunder.

6(B) It is humbly submitted that the Principal Secretary / Commissioner of Revenue Administration, Chennai in his letter No.Ser.3(4) 31350/2019 dated 25.10.2019 has instructed to commence the process of getting option letter from the officials of all cadres in the district and to finalize their position by following due procedures. Further wherein it has been earmarked that,

"In case of receipt of options more than the numbers required to be transferred to the new District, then the numbers required to be transferred in a particular cadre should be restricted to the requirement and the names have to be finalized by adopting strict seniority among the staff who opted to be transferred to proposed new District and only the senior most should be transferred."

With a view to obey the above, this respondent have received option letters from all the officials and scrutinized the same and allotted districts merely on seniority basis and as per the guidelines issued by the Principal Secretary/ Commissioner of Revenue Administration, Chennai.

6(C) It is humbly submitted that the Principal Secretary/ Commissioner of Revenue Administration, Chennai in his letter no.Ser.3(4)/ 31359/2019 dated : 22.11.2019 has instructed that,

"The District Collectors of Parent District must bear in mind that sufficient staff should be given to the newly created District even though there are vacancies in a particular category of post, for e.g., if the total number of post in the cadre of Tahsildar to be allotted to the New District is 10 and the total number of Tahsildar available in the parent district is only 15 out of 20, then the vacancies must also be shared proportionately by both the parent and the new District, So that proportionate number of staff will be physically available for both the districts for effective administration."

Keeping in mind of the above, while finalizing the vacancies in the cadre Deputy Tahsildars in both Villupuram and Kallakurichi districts, it was ascertained that 14 vacancies in Kallakurichi district & 11 vacancies in Villupuram district. Therefore, in order to share proportionate number of staffs for both the districts, the junior most 03 Deputy Tahsildars including the Writ Petitioner who are available in the last drawn Deputy Tahsildar Panel were transferred to the newly formed Kallakurichi district and hence, the action of this respondent is neither will full nor wanton and committed only based on the instructions of the Commission of Revenue Administration.

6(D) It is humbly submitted that the averment of the Writ Petitioner made in the paragraph No.7 and 8 of his affidavit are not reflected the instructions and guidelines of the 1st respondent dated 25.10.2019 and 22.11.2019 and are made in arbitrarily and hence, the averments put forth in the said paragraphs are not acceptable and liable to

be dismissed. It is pertinent to note that the Principal Secretary/ Commissioner of Revenue Administration, Chennai in his instructions in Annexure II, Para no. viii of the letter no. Ser. 3 (4)/ 31350/ 2019 dt. 25.10.2019 have stated that

"In case if the options are received from lesser number of staff than the required number to be transferred to the new District for a particular cadre, then the number of staff equivalent to the shortfall should be deputed by selecting the junior most in the cadre from the combined district seniority of district for that post."

and accordingly, the junior most 03 Deputy Tahsildars including the Writ petition available in the 2018 Deputy Tahsildar panel ere transferred to the newly formed Kallakurichi district and hence the decision of the respondents are correct.

4. Mr.J.Pothiraj, learned counsel appearing for the respondents would submit that the above averments contained in the counter affidavit would clearly establish that there was no illegality or arbitrariness in the transfer orders but only in order to have a smooth and uninterrupted functioning of the newly created District, such adjustments of staff have taken place. He would submit that in similar circumstances in respect of bifurcation of Vellore District, in a batch of writ petitions in W.P.Nos.12441, 12443, 12444, 12447, 12448 & 12449 of 2020, this Court dismissed all the writ petitions accepting similar reasons pleaded on behalf of the respondents therein vide its order dated 05.10.2020.

5. Per contra, Mr.S.T. Varadarajulu, learned counsel for the petitioners would submit that the guidelines issued by the Government in this regard dated 22.11.2019 have not been followed strictly. According to him, the transfers have been indiscriminately made and the senior staff have been disturbed, retaining the juniors. Therefore, he would submit that the transfer orders are required to be interfered with.

6. In any event, it is to be seen that the transfer orders which have been given effect to already had worked itself out and at this point of time, this Court cannot set aside the transfer orders. This Court also finds that the transfer orders are not challenged in these writ petitions but merely, a Mandamus is being sought in the writ petitions to cancel the transfer orders. This Court is of the considered view that without challenging the transfer orders, it is not legally

maintainable for the petitioners to ask for issuance of Mandamus. Such prayer, in the opinion of this Court, is thoroughly misconceived and unsustainable. On this ground alone, these writ petitions need to be dismissed. Even otherwise, this Court finds that there are absolutely no grounds raised in the writ petitions to question the transfer orders except making some bald allegations in the affidavit regarding violation of the guidelines.

7. As submitted by the learned Special Government Pleader, in similar circumstances, in a batch of writ petition in W.P.Nos.12441/2020 etc. batch dated 05.10.2020, in regard to the trifurcation of Vellore District, the writ petitioners' challenge of transfers therein, came to be dismissed. Paragraph Nos. 6 to 10 of the said order are extracted hereunder.

6.The learned Special Government Pleader would submit that even in regard to the merits, a tabular column has been shown in the counter affidavit stating that these petitioners have been juniors to the persons who have been retained in Vellore District and all the juniors to the petitioners herein have been posted to the other two newly formed Districts. The tabular column in the counter affidavit has clearly shown the Seniority Number, Seniority Rank and the posting of the Assistants. The learned Special Government Pleader would therefore submit that the petitioners services were required in other newly formed Districts for the effective District administration and since the trifurcated Districts do form part of the erstwhile Vellore District, there cannot be any grave hardship or suffering to the petitioner in the transferred places.

7.The learned counsel for the petitioner however would still submit that a direction may be issued to the second respondent to reconsider his decision, which this Court felt that such request was untenable and cannot be entertained, in view of the clear stand taken by the second respondent in the counter affidavit and also verbal submission made on behalf of the second respondent by the learned Special Government Pleader.

8.In similar circumstances, after taking note of the proportionate vacancy positions being maintained in all the three Districts, this Court has dismissed writ petitions in W.P.Nos.10975 & 10314 of 2020 dated 16.09.2020. In those writ petitions also similar prayer was asked for on behalf of the petitioners and similar

counter affidavits were filed highlighting the vacancy position and the seniority and on acceptance of valid objections from the District Collector, Vellore District, those writ petitions were rightly dismissed by this Court.

9.As regards the submission of the learned counsel for the petitioner regarding the direction issued in the other batch of writ petitions i.e., in W.P.Nos.9454, 9459, 9460, 9462 & 9463 of 2020 dated 22.07.2020, the said direction was issued on the basis of the submission made on behalf of the second respondent / District Collector, Vellore District that he was willing to reconsider if any direction is issued by this Court in the matter. However, while giving a direction this Court had not decided the legality of the transfer orders but merely directed the Collector to reconsider the transfer of those petitioners afresh, such direction cannot have binding force on this Court.

10.On the other hand, in identical circumstances, referring to similar objections raised on behalf of the District Collector, Vellore District, writ petitions in W.P.Nos.10975 & 10314 of 2020 came to be dismissed vide order of this Court dated 16.09.2020 and in that view of the matter, these writ petitions are also liable to be dismissed.

8. In view of the dismissal of the batch of writ petitions on the same set of facts and grounds, this Court does not think that these writ petitions can be entertained even on merits. Therefore, the writ petitions stand dismissed both as not maintainable as well as on merit. No costs.

सत्यमेव जयते

Sd/-
Assistant Registrar (CS III)

//True copy//

Sub Assistant Registrar

vsi

To

1. The Principal Secretary/
Commissioner of Revenue Administration,
Govt. of Tamilnadu,
Chepauk,
Chennai - 600 005.

2. The Collector of
Villupuram District,
Collector Office Road,
Moovendar Nagar,
Villupuram - 605 202
3. The Collector of
Kallakruichi District,
Kesavalu Nagar, VOC Nagar,
Kallakurichi - 606 202

+1cc to Government Pleader SR.No.6675

+2cc to M/s.S.T.Varadarajulu, Advocate SR.No.6572

Pre-delivery order in
W.P.Nos.13078, 13079 & 13084 of 2020

RSI (CO)
KKV/03/03/2021



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