



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2021

CORAM

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN
AND
THE HONOURABLE MR. JUSTICE A.A. NAKKIRAN

W.A. No. 2356 of 2021

&

C.M.P. No. 15017 of 2021

Boobalan

..Appellant/3rd Respondent

Vs.

1. Zakir Hussain ..1st Respondent/ Petitioner
2. The District Revenue Officer,
Collectorate Complex,
Thiruvallur,
Thiruvallur District.
3. P. Selvam ..2 & 3 Respondent/1 & 2 Respondents

Prayer: Writ Appeal as against the order dated 28.06.2021 passed in W.P. No. 1137 of 2021.

Prayer in in W.P. No. 1137 of 2021:

Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the order of the 2nd Respondent issued in Na.Ka.No. 1651 / 2020 / A1 dated 31.12.2020 and the consequential order issued in Na.Ka.No. 1651/2020/A1 dated 29.01.2021 posting the petitioner at Kolar-1 Village Ponneri Taluk as Village Administrative Officer and direct the 2nd Respondent to permit the petitioner to serve as Village Administrative Officer in Padiyanallur Village, Ponneri Taluk.

(Prayer amended vide order dated 28.04.2021 made in WMP.NO.4348/2021 IN WP.NO.1137/2021)

For Appellant :: Mr.T.V.G.Kartheeban
For Respondents:: Mr.P. Ebenezer Paul for R1
Mr.K. Tippu Sultan,
Govt. Advocate for R2

J U D G M E N T

(Judgment of the Court was delivered by S. VAIDYANATHAN, J.)

<https://hcservices.ecourts.gov.in/hcservices/> The present writ appeal has been filed challenging the order of the learned Single Judge 28.06.2021 passed in W.P. No. 1137 of 2021.



2. The 1st respondent herein filed the writ petition challenging the order dated 29.01.2021 posting him at Kolur-1 Village, Ponneri Taluk as Village Administrative Officer and for a consequential direction to the 3rd respondent herein/2nd respondent therein to permit the 1st respondent to serve as Village Administrative Officer in Padiyanallur Village, Ponneri Taluk.

3. The case of the 1st respondent/writ petitioner before the learned Single Judge was that though he was eligible to get posting in "B" Village, following the guidelines contained in G.O.Ms.No.82 Revenue and D.M. Ser(7(1)) Department dated 26.02.2018, pursuant to the General Counselling conducted on 29.10.2019 for Village Administrative Officers, as his name stood at Serial No.5 in the list of persons eligible to get posting in "B" Village and he was also transferred to Padiyanallur Village in Ponneri Firka, by order dated 31.12.2020, the said order was cancelled by a subsequent order signed on 31.12.2020 by which the appellant/3rd respondent therein, was allotted to Padiyanallur Village, (Native Firka) without assigning any reason.

4. The learned Single Judge, finding that the impugned order was not supported by any reason, that it suffered from mala fides and was also in contravention of the guidelines issued vide G.O.Ms. No. 82 dated 26.02.2018, set aside the same and allowed the writ petition directing the authority concerned to permit the 1st respondent/writ petitioner to serve as Village Administrative Officer at Padiyanallur Village, Ponneri Taluk, Thiruvallur District. Challenging the same, the 3rd respondent in the writ petition has filed this appeal.

5. According to the appellant, he has been asked to join at Padiyanallur and that the 1st respondent/ Zakir Hussain has not been transferred to the place as it has been reserved for his post and that on administrative grounds, the transfer has been made. According to the appellant, the 1st respondent has no right to question the transfer and as there are no mala fides, the learned Single Judge ought not to have allowed the writ petition. It is the contention of the appellant that he was working at Padiyanallur and he has not handed over charge to the said Zakir Hussain as he was on medical leave and that the 1st respondent has usurped the place, which is illegal. Hence, he would submit that the writ appeal has got to be allowed and the order of the learned Single Judge has got to be set aside.

6. It is submitted by Mr.P. Ebenezer Paul, learned counsel for the 1st respondent that in terms of G.O. Ms.No.82 Revenue and D.M. Ser(7(1)) Department dated 26.02.2018, based on seniority list, the place has been identified for the 1st respondent to join the post. Though the 1st respondent was transferred, subsequently, the said order was cancelled citing administrative reasons and in his place, the appellant was transferred, which



was questioned by him in the writ petition. The learned Single Judge accepted the contention of the 1st respondent/writ petitioner after going through the impugned order that the place had been identified for posting the 1st respondent and that the 1st respondent had joined the post on 31.12.2020 as he had already been issued with a transfer order. Now, nearly 10 months have gone by from the date of the 1st respondent joining the transferred place, namely, Padiyanallur and as per the guidelines issued in G.O.Ms. No.82 dated 26.02.2018, no person has a right to seek a specific place of posting and that a request to place them in a particular place may be made for which seniority list will be prepared and depending upon the vacancies, postings will be given. It is further brought to the notice of this Court by the learned counsel for the 1st respondent/writ petitioner that the appellant herein did not appear before the learned Single Judge and the notice sent was returned with the endorsement "Refused to receive".

7. Heard both parties.

8. As rightly held by the learned Single Judge, the place that has been identified for posting the 1st respondent has been sought to be cancelled to accommodate the appellant herein and the order of transfer challenged in the writ petition suffers from mala fides, and also found to be in violation of G.O. Ms.No.82 dated 26.02.2018. We find no reason to interfere with the order of the learned Single Judge and accordingly, the writ appeal stands dismissed. No costs.

9. This Court makes it very clear that no person holding the post of Village Administrative Officer shall be allowed to continue in a particular station, for more than 2 years, whatever may be the reason and that there shall be administrative transfers so that Village Administrative Officers may not have vested interest in a particular place. Connected C.M.P. is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

nv
To,

The District Revenue Officer,
Collectorate Complex,
Thiruvallur,
Thiruvallur District.

+1 cc to Mr. P. Ebenezer Paul, Advocate Sr.NO.45776

+1 cc to Mr.T.V.G.Kartheeban, Advocate Sr.NO.48032

+1 cc to Government Pleader Sr.NO. 48226