



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.09.2021

PRONOUNCED ON : 15.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.21083 of 2021
and WMP.Nos.22338 & 22340 of 2021

S.Karthikeyan

.. Petitioner

vs

The Director General of Police,
and Head of Police Force,
Tamilnadu, Chennai 600 004.

.. Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records on the file of the respondent in RC No.000061/GB/VII(2)2021-425 dated 23.09.2021 and quash the same and to direct the respondent to allow the petitioner to continue in the same station till he completes his normal tenure.

For Petitioner : Mr.M.Ravi

For Respondent : Mr.L.S.M.Hasan Fizal
Government Advocate.

O R D E R

The Petitioner has challenged the impugned transfer order dated 23.09.2021 transferring the Petitioner as Superintendent of Police, District Crime Records Bureau, Sivagangai from Deputy Superintendent of Police, Narcotics Intelligence Bureau CID, Chennai.

2. It is the case of the Petitioner that the Petitioner was recently transferred from Ariyalur as Deputy Superintendent of Police, Narcotics Intelligence Bureau CID, Chennai, by an order dated 21.08.2021.

3. It is the further case of the Petitioner that prior to his posting at Ariyalur, the Petitioner was at Chidambaram Sub-Division at Cuddalore District, wherein he



had served for a period of one year and seven months between February 2019 and August 2020.

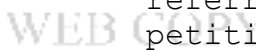
4. The learned counsel for the petitioner has placed reliance on G.O.Ms.No.10, P & AR Department dated 07.01.1994 and the subsequent clarification of the Government Order dated 05.08.1998. It is submitted that the impugned transfer does not satisfy the criteria in Annexure 1 to G.O.Ms.No.10, P & AR Department dated 07.01.1994 and the subsequent clarification dated 05.08.1998 of the Government.

5. The learned counsel for the Petitioner submits that the impugned transfer order also has not given any reasons as to why the Petitioner is being transferred within a very short period or few days after he was transferred to the present post on 21.08.2021. In support of his submission, the learned counsel for the Petitioner placed reliance on the decision of the Hon'ble Supreme Court as well as this Court:-

- "(i) Somesh Tiwari vs. Union of India and others, 2009 (2) SCC 592.
- (ii) S.Ramawamy vs. The Director of Town Panchyat, Office of the Directorate, Kurualagam, Chennai and others, 2016 SCC Online Mad 16080.
- (iii) P.Velmurugan vs. The Director, the Local fund Audit Department and others in W.P.Nos.4799 and 4803 of 2021 batch vide order dated 30.07.2021."

6. The learned Government Advocate appearing for the respondent submits that there is no merits in the present writ petition. It is submitted that transfer is a necessary rule of the Government Service. Learned counsel for the respondent has placed reliance on the decisions of the Division Bench of this Court in S.Ganesamoorthy and others vs. Bharat Heavy Electronics Limited in W.A(MD) Nos.1684 to 1695 of 2018 vide order dated 30.08.2019. The learned counsel for the petitioner further placed reliance on the decision of the Hon'ble Supreme Court in Dhusar Dut vs. State of Gujarat and another in Civil Appeal No.968 of 2009 vide order dated 12.02.2009. '

7. The learned counsel for the petitioner also placed reliance on another Division Bench of this Court Judgment in W.A.(MD)Nos.125 and 195 of 2016 vide order dated 21.04.2016 passed in W.A.Nos.453 and 453 of 2016 in Loganathan vs. The Secretary to Government, Health and Family Welfare Department and others. In this connection, the learned counsel for the Respondent submits that the order of the transfer cannot be interfered with therefore this writ petition is filed devoid of merits and is liable to be dismissed.



9. I have perused the Government orders and the laws referred to by the learned counsel for the petitioner. The petitioner is a member of the Tamil Nadu Uniformed Service namely Police Force. The petitioner was earlier transferred as Deputy Superintendent of Police, Narcotics Intelligence Bureau CID, Chennai from the post held by him as Deputy Superintendent of Police, Social Justice and Human Rights, Ariyalur District, vide order dated 21.08.2021. Almost within a month and two days time, the petitioner was transferred as a Deputy Superintendent of Police, Crime Records Bureau, Sivagangai District in the existing vacancy in Sivagangai District.

11. As far as G.O.Ms.No.249 dated 21.05.200 is concerned, it was issued in the backdrop of the out break of the Covid-19 pandemic during March 2020. Therefore, the Government of Tamil nadu issued the aforesaid Government Order to curb expenditures which are normally incurred for a Government Servant in connection with their transfer. It was a general Guideline issued to various department functioning in the Government of Tamil nadu. It was not intended to impinge upon the powers of the Respondent Director General of Police who is the Head of Police Force in the State. The Police Service is an essential service and every Personnel should be ready to serve wherever they are posted

<https://hcservices.ecourts.gov.in/hcservices/Service>.



13. Transfer as a general rule cannot be interfered and it is a necessary condition of the Government service. The petitioner has also neither alleged malafide in the affidavit nor proved the transfer was motivated either on malafide or the transfer was punitive in nature. Thus, there is no merits in the present writ petition.

14. Under these circumstances, I am also not able to apply the other decisions cited by the learned counsel for the petitioner to the facts of the present case. Consequently, challenge to the impugned transfer order of the petitioner has to fail. Accordingly, this writ petition is liable to be dismissed and it is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

kkd
To

The Director General of Police,
and Head of Police Force,
Tamilnadu, Chennai 600 004.

+1 cc to Mr.M.Ravi, Advocate Sr.NO. 67754
+1 cc to Government Pleader Sr.NO. 67972

W.P.No.21083 of 2021

RGN(CO)

A.SK(21.01.2022)