



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.10.2021

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P (MD)No.4293 of 2021

and

W.M.P (MD)Nos.13573 & 3476 of 2021

WEB COPY

A.Shanmugam

... Petitioner

Vs.

1.The Chief Educational Officer,
Trichy District,
Trichy.

2.The District Educational Officer,
Lalgudi Educational District,
Lalgudi,
Trichy District.

3.Head Mistress,
D.N.Government Higher Secondary School,
Perumalpalayam,
Thuraiyur Taluk,
Trichy District.

4.Physical Educational Teacher,
D.N.Government Higher Secondary School,
Perumalpalayam,
Thuraiyur Taluk,
Trichy District.

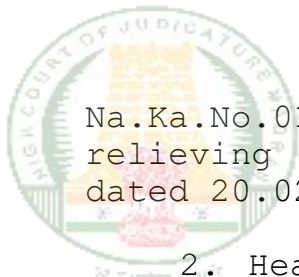
... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the Impugned transfer order passed by the 1st respondent in his proceeding in Na.Ka.No.01724/E1/2020 dated 19.02.2021 and a consequential relieving order passed by the 3rd respondent in Na.Ka.No.119/2021 dated 20.02.2021 and quash the same as illegal.

For Petitioner : Mr.N.Anandakumar
For R1 : Mr.A.K.Manikkam,
Standing Counsel for State.
For R2 - R4 : No Appearance.

ORDER

This Writ Petition has been filed for the issue of a Writ of Certiorari, to call for the records pertaining to the Impugned transfer order passed by the 1st respondent in his proceeding in



Na.Ka.No.01724/E1/2020 dated 19.02.2021 and a consequential relieving order passed by the 3rd respondent in Na.Ka.No.119/2021 dated 20.02.2021 and quash the same as illegal.

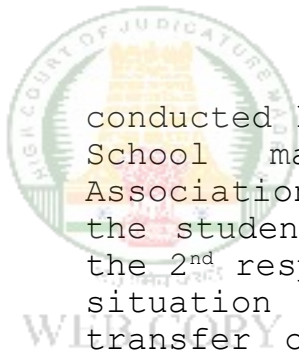
2. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the first respondent.

3. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

4. According to the petitioner, while he was working as PG Assistant (Mathematics) in Perumalpalayam D.N. Government Higher Secondary School, he noticed certain indisciplined activities on the part of teaching and non-teaching staff including PET teachers and the Headmaster, who were not prompt in their duty and were indulged in collecting a sum of Rs.1200/- towards admission and Rs.200/- towards issuing Transfer Certificates illegally from the students without issuing any receipts thereof. In this regard, he sent a complaint to the Chief Minister's Cell on 30.01.2021. A false police complaint was lodged by one girl student and her mother at the instance of the 4th respondent against the petitioner, which was enquired by police and found it as a false complaint. According to the petitioner, all the teaching personnel including the Headmaster of the school were acting against the interest of the petitioner and the 2nd respondent gave a report against the petitioner dated 17.02.2021, based on which, the petitioner was issued transfer order dated 19.02.2021, transferring the petitioner to Government Boys Higher Secondary School, Thuvankuruchi, Trichy District and later, he was also served with relieving order dated 21.02.2021. Aggrieved by the said order, the petitioner has come forward with the present Writ Petition.

5. A counter affidavit has been filed on behalf of the 1st respondent, stating that on receipt of a complaint from the Chief Minister's Cell, 2nd respondent visited the school on 16.02.2021 and on enquiry, it was revealed that the petitioner himself styled as Periarist and he was going to make revolutionary changes and used to come school by wearing black shirt and cut the colour threads worn by the students and prohibit the girl students from wearing the flowers, kumkum etc. All the public who gathered informed the 2nd respondent that unless sufficient action is taken, they would not send their wards to the school. In such circumstances, to avoid extraordinary situation, the petitioner was transferred. Though he was transferred and relieved on 20.02.2021, he did not join the duty, but was continuously availing medical leave. Therefore, since the transfer order was passed due to administrative grounds, the Writ Petition, challenging the said order, cannot be maintained and it is liable to be dismissed.

6. The learned Standing counsel appearing for the 1st respondent would submit that since the petitioner was acting against the students which was revealed during the enquiry



conducted by the 2nd respondent in the presence of President of the School management Committee, President of Parent Teachers Association and their members, Vice President of Local Panchayat and the students of X to XII standard. After conducting the enquiry, the 2nd respondent came to the conclusion that to avoid extraordinary situation and to bring smooth atmosphere in the school campus, transfer of the petitioner is necessary and accordingly, he was transferred and there is no mala fide or bias in such transfer. He would also submit that the transfer order cannot be said to be punitive in nature, but only to avoid friction among the school and general public, the petitioner was transferred. He relied upon decisions of the Hon'ble Supreme Court in "**State of U.P. Versus Gobardhan Lal**" reported in (2004) 11 SCC 402, wherein, it has been held as under:

"7.It is too late in the day for any Government Servant to contend that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires. Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contra, in the law governing or conditions of service. Unless the order of transfer is shown to be an outcome of a mala fide exercise of power or violative of any statutory provision (an Act or Rule) or passed by an authority not competent to do so, an order of transfer cannot lightly be interfered with as a matter of course or routine for any or every type of grievance sought to be made. Even administrative guidelines for regulating transfers or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments. This Court has often reiterated that the order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable rights, unless, as noticed supra, shown to be vitiated by mala fides or is made in violation of any statutory provision. "

7. He also relied upon another decision of the Hon'ble Supreme Court in "**State of U.P. Versus Ram and another**) reported in (2004) 7 SCC 405, wherein, it has been held as under:

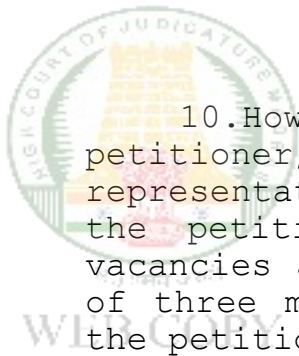
<https://hcservices.ecourts.gov.in/hcservices/>



"5. The High Court while exercising jurisdiction under Articles 226 and 227 of the Constitution of India, 1950 (in short the 'Constitution') had gone into the question as to whether the transfer was in the interest of public service. That would essentially require factual adjudication and invariably depend upon peculiar facts and circumstances of the case concerned. No government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to other is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of mala fide exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the courts or the tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the employer/management, as against such orders passed in the interest of administrative exigencies of the service concerned."

8.The learned counsel appearing for the petitioner would submit that since the petitioner has pointed out irregularities committed by the teaching personnel including the Headmaster, he was targeted and transferred and it was created a stigma to his service career. He would also submit that the petitioner was transferred to a far way place which is more than 120 k.ms. and he has to look after his aged mother and his health condition also getting deteriorated and considering the same, the learned counsel seeks indulgence of this Court to direct the respondents to accommodate the petitioner to a nearby place.

9.Considering the facts and circumstances and the submissions made by the learned counsel on either side, this Court does not find any reasonable grounds to interfere with the transfer order since it has been passed by the respondents after conducting a detailed enquiry in the presence of one and all and that too to avoid extraordinary situation and to bring a smooth atmosphere. In fact, transfer is an incident of service and is made in administrative exigencies and the appointing authority has a wide discretion in the matter. Normally it is not to be interfered with by the Courts. It has been well settled that orders of transfer should not be interfered with except in rare cases where the transfer has been made in a vindictive manner. This Court does not find any mala fide on the part of the respondents in transferring the petitioner. Therefore, this Court is not inclined to interfere with the impugned



10.However, in view of the submission now made by the petitioner, this Court, while permitting the petitioner to make a representation, directs the respondents to consider the request of the petitioner and accommodate him to a nearby place if any vacancies are available and pass appropriate orders within a period of three months from the date of receipt of the representation of the petitioner.

11.Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected WMPs are closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Chief Educational Officer,
Trichy District, Trichy.

2.The District Educational Officer,
Lalgudi Educational District,Lalgudi,Trichy District.

3.Head Mistress,
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4.Physical Educational Teacher,
D.N.Government Higher Secondary School,
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+1 CC to M/s.SPL.GP (SR-31346[F] dated 06/10/2021)

W.P (MD)No.4293 of 2021
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MGJ/PM(08.11.2021) 5P 6C