



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.7882 of 2021

and

W.M.P (MD) No.6017 of 2021

WEB COPY

P.S.Ramesh

... Petitioner

-Vs-

1.State of Tamil Nadu,

Rep. by its Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai.

2.The Director General of Police/
Director of Fire and Rescue Service,
Fire and Rescue Services Department,
No.17, Rukmani Lakshmipathy Road,
Egmore, Chennai-08.

3.The Deputy Director,
Southern Region,
Fire and Rescue Services Department,
Melaveli Street,
Madurai-625 001.

4.The District Fire Officer,
O/o.The District Fire Officer,
Fire and Rescue Department,
Theni District,
Theni.

5.The Assistant District Officer,
O/o.The District Office,
Fire and Rescue Department,
Theni District, Theni.

6.The Station Fire Officer,
Fire and Rescue Department,
Uthamapalayam,
Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Order in proceedings No.Rc.No.16375/B3/2020, dated 17.03.2021 on the file of the Respondent No.2 to retain the petitioner within the Theni Jurisdiction.



For Petitioner : Mr.T.Lajapathi Roy
For Respondents : Mr.C.Ramesh
Special Government Pleader

ORDER

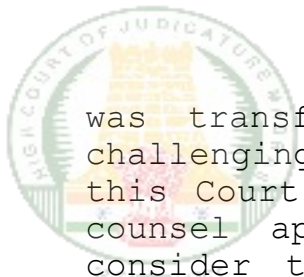
This Writ Petition is filed to quash the Impugned Order, dated 17.03.2021, passed by the second respondent, in Rc.No.16375/B3/2020.

2. Mr.C.Ramesh, learned Special Government Pleader takes notice on behalf of the respondents.

3. According to the petitioner, he was appointed as Fireman on 09.09.1996 and served more than 25 years. Currently, he is working as Fireman under the sixth respondent for a period of 20 years. While so, he gave a complaint against the sixth respondent. In view of the same, the fourth respondent posted the petitioner as out station duty on two occasions for 70 days. Subsequently, the fourth respondent transferred the petitioner to Ramanathapuram Fire Station on Administrative reasons, by an order, dated 17.12.2020. The petitioner challenged the same by filing writ petition in W.P (MD)No.1886 of 2021, as the said order was passed as a punishment and to harass the petitioner for raising the complaint against the sixth respondent. This Court, by order, dated 04.02.2021 directed the first respondent therein to consider the representation of the petitioner. The second respondent, without hearing the petitioner, passed the impugned order rejecting the request of the petitioner. Hence, the petitioner has come out with the present writ petition.

4. The learned counsel appearing for the petitioner submitted that the petitioner's wife is working in COVID-19 ward at Chennai. His mother is aged about 70 years old. Only the petitioner is taking care of his mother. The said transfer order is a punishment for making a complaint against the sixth respondent. Only two criminal cases are pending against the petitioner and not three cases as alleged by the fourth respondent. The petitioner was also issued with charge memo under Rule 17(1) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and a punishment of stoppage of one increment without cumulative effect was issued by the fourth respondent, vide proceedings dated 05.08.2020. The impugned order passed stating the very same reason for denial of transfer is arbitrary, illegal and unwarranted and prayed for setting aside the impugned order.

5. Mr.C.Ramesh, learned Special Government Pleader appearing for the respondents submitted that the petitioner is working in the Uniformed Service. The petitioner belongs to Theni District and he continued more than 23 years in his native District. He involved in three criminal cases and suppressing the criminal case, he participated in the Court proceedings without getting any permission from the authorities. Only on Administrative ground, the petitioner



was transferred. The petitioner has filed the writ petition challenging the order of transfer. At the time of hearing, when this Court did not accept the case of the petitioner, the learned counsel appearing for the petitioner restricted his relief to consider the petitioner's representation. The second respondent considered the representation of the petitioner and rejected his request by giving cogent and valid reason and prayed for dismissal of the writ petition.

6. From the above rival submissions, it is seen that admittedly, the petitioner was working for 20 years in the sixth respondent office, which is his native place and for 23 years in his own District. On Administrative reason, the petitioner was transferred from sixth respondent office to Ramanathapuram Fire Station. Challenging the said transfer, the petitioner filed writ petition in W.P.(MD)No.1886 of 2021. At the time of hearing, the learned counsel for the petitioner restricted his relief and represented that the petitioner would be satisfied, if his representation, dated 30.12.2020 is considered by the respondents, within the stipulated time fixed by this Court. By order, dated 04.02.2021, this Court directed the second respondent to consider the representation. The second respondent has considered the representation of the petitioner and rejected the same by giving valid reasons. The contention of the learned counsel for the petitioner was that the second respondent ought to have given personal hearing to the petitioner before passing the impugned order, is without merits.

7. From the impugned order, it is seen that the second respondent has considered the representation of the petitioner and rejected the same by giving valid reasons. A reading of the impugned order shows that the petitioner was transferred on Administrative ground, as he was working for 20 years in his own place and more than 23 years in his native District. Transfer is an incident of service and is made in administrative exigencies. Normally, it is not to be interfered with by the Courts. This Court consistently has been taking a view that orders of transfer should not be interfered with except in rare cases where the transfer has been made in the vindictive manner. The petitioner has worked 20 years in his native place and the petitioner has worked for 23 years in his native District.

8. For the above reasons, there is no infirmity or illegality in the order of the second respondent, warranting interference by this Court. In the result, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

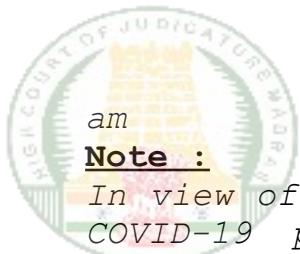
Sd/-

Assistant Registrar (Records)

// 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 Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai.
- 2.The Director General of Police/
Director of Fire and Rescue Service,
Fire and Rescue Services Department,
No.17, Rukmani Lakshmipathy Road,
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Theni District, Theni.
- 6.The Station Fire Officer,
Fire and Rescue Department,
Uthamapalayam,
Theni District.

+1 CC to M/s.SPL GP (SR-16260[F] dated 17/04/2021)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-16390[F] dated 19/04/2021)

W.P. (MD) No.7882 of 2021
16.04.2021

RK (28.04.2021) 4P 8c