



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.401 of 2019

and

W.M.P (MD) Nos.336, 337 and 2546 of 2019

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G.Kishore Kumar

...Petitioner

Vs.

1.The Director,
Office of the Director of Medical and Rural Health Services,
ESI, Chennai-6.

2.The Regional Administrative Medical Officer,
ESI, Madurai.

3.The Medical Officer, (Incharge),
Government ESI Dispensary,
Nagercoil,
Kanyakumari District.

4.The Hospital Superintendent,
ESI Hospital,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records pertaining to the impugned Diversion order in Ref.No.22407/ESI/E2/1/2018 dated 20.12.2018 passed by the first respondent and quash the same as illegal and unconstitutional.

For Petitioner

: Mr.S.Balamurugan

For Respondents

: Mr.P.Mahendran

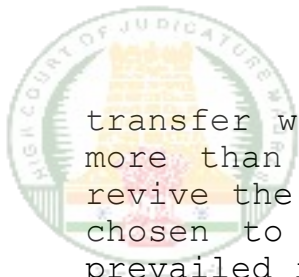
Additional Government Pleader

O R D E R

Heard Mr.S.Balamurugan, learned counsel appearing for the petitioner and Mr.P.Mahendran, learned Standing Counsel appearing for the respondents.

2.The petitioner is aggrieved against the impugned transfer order dated 20.12.2018. This Court had also granted an order of interim stay on 08.01.2019, pursuant to which, the petitioner is continuing to work at Office Superintendent, ESI Dispensary, Nagercoil.

3.The learned counsel for the petitioner as well as the learned Additional Government Pleader affirms that the petitioner is continuing to work in the same station. The impugned order of



transfer was on Administrative grounds. However, after a lapse of more than 2 years, it would not be appropriate to interfere and revive the impugned order of transfer, when the respondents have not chosen to file their counter. The administrative exigencies that prevailed in the year 2018 may not prevail as on date.

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4.It is needless to point out that in future, if the respondents require the petitioner to be transferred on administrative exigencies, it is open to the respondents to invoke their administrative powers to effect such transfers on administrative grounds.

5.In the light of the above observations, the writ petition stands allowed and the impugned order in Ref.No.22407/ESI/E2/1/2018, dated 20.12.2018, passed by the first respondent is quashed. No costs. Consequently, connected miscellaneous petitions are closed

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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 Director,
Office of the Director of Medical and Rural Health Services,
ESI, Chennai-6.
- 2.The Regional Administrative Medical Officer,
ESI, Madurai.
- 3.The Medical Officer, (Incharge),
Government ESI Dispensary,
Nagercoil,
Kanyakumari District.
- 4.The Hospital Superintendent,
ESI Hospital, Madurai.



+1 CC to M/s.SPL GP (SR-12786[F] dated 22/03/2021)

+1 CC to M/s.S.BALAMURUGAN, Advocate (SR-13006[F] dated
23/03/2021)

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19.03.2021

MJ(CO)

KB(17.04.2021) 3P 7C