



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.13154 of 2021

and

W.M.P.Nos.10162 and 10163 of 2021

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... Petitioner

-vs-

1.The Director Revenue Officer,
Trichy District,
Trichy.

2.The Revenue Divisional Officer,
Lalgudi,
Trichy District.

3.The Tahsildar,
Lalgudi Taluk Office,
Lalgudi,
Trichy District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of certiorarified mandamus to call for the records pertaining to the impugned order of the second respondent in Na.Ka.A1-1452-2021 dated 20.07.2021 and its consequential order of the third respondent in Na.Ka.A3/2974/2021 dated 20.07.2021 and quash the same as illegal and consequently direct the respondents herein to retain the petitioner in Madakkudi Village, Lalgudi Taluk, Trichy District as Village Administrative Officer and pass orders.

For Petitioner : Mr.K.Arunraj
For Respondents : Mr.A.K.Manikkam
Government Counsel

O R D E R

The prayer in this writ petition is for issuance of a writ of certiorarified mandamus to call for the records pertaining to the impugned order of the second respondent in Na.Ka.A1-1452-2021 dated 20.07.2021 and its consequential order of the third respondent in Na.Ka.A3/2974/2021 dated 20.07.2021 and quash the same as illegal and consequently direct the respondents herein to retain the petitioner in Madakkudi Village, Lalgudi Taluk, Trichy District as Village Administrative Officer.



2. According to the Writ Petitioner, he was appointed as Village Administrative Officer on 14.02.2014 through Tamil Nadu Public Service Commission. At present, he is working as Village Administrative Officer at Madakkudi Village under the third respondent. The petitioner has been residing with his aged mother, wife and two children in the same place in Madakkudi Village. However, the second-respondent has passed the impugned order dated 20.07.2021, followed by the consequential order of the same date of the third-respondent, transferring the petitioner from Madakkudi Village, Lalgudi Taluk to Puthakkudi, Kattakudi Kavinaripatti Village, Marungapuri Taluk. The transferred place is far away from the present place namely about 100 kilometers from the present station. Thus, this transfer order, during the middle of the academic year, causes great hardship to the family-members of the petitioner and therefore the petitioner prays that the impugned transfer order to be quashed and the petitioner may be retained at Madakkudi Village itself.

3. A Counter affidavit has been filed by the second-respondent. In the said counter affidavit, it is stated that charges were framed against the petitioner and those charges are very grievous in nature. Therefore, in the interests of administration, the impugned order has been passed by transferring the petitioner. Further, it is stated in the counter affidavit that the petitioner is not residing in the headquarters at Madakkudi Village and his residence is at Sundararajapattinam, Paramakudi, Ramanathapuram District and therefore in the interests of administration the petitioner was transferred to Puthakkudi, Kattakudi Kavinaripatti Village, Marungapuri Taluk as Administrative Officer.

4. The Hon'ble Supreme Court in various decisions has held that normally the Courts cannot interfere in the decision of transfer of the employees from one place to another. The Hon'ble Supreme Court in the case of ***"State of Uttar Pradesh and Another Vs. Siya Ram and Another, reported in (2004) 7 SCC 405"*** has held as follows:

" 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."

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5.Following the aforesaid judgment, a Division Bench of this Court has also held in Writ Appeal No.1142 of 2021, Judgement dated 08.01.2021 in the case of **"State of Tamil Nadu rep, by its Secretaty, Municipal Administration and Water Supply Department, Chennai and another Vs. P. Subbuthai and another reported in 2021(2) CTC page 11,** as follows:

".....Transfer cannot be used as a tool of oppression or punishment, but only for better administration - Mere allegation or speculation of extraneous reasons not ground for judicial interference - Transfer for administrative reasons, which is otherwise permissible, is maintainable unless malice or hostile discrimination is established - Transfer can be effected only on compelling grounds or unavoidable necessity.....".

6.In view of the aforesaid judgments, the order of transfer cannot be interfered with, in exercise of the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. It is not argued on behalf of the petitioner that the order of transfer was with any mala fide intention, hostile discrimination or in violation of any statutory provision. On the other hand, it has been stated on behalf of the second-respondent that grievous charges have been framed against the petitioner. At this stage, learned counsel for the petitioner has submitted before this Court that there is a vacancy in the nearby villages in the same Taluk. According to the learned counsel for the petitioner, if any place in the same Taluk, namely Lalgudi Taluk, is considered, the petitioner has no grievance.

7.In view of the aforesaid submissions of the learned counsel for the petitioner, this Court, without going into the merit of the matter, directs the second respondent, subject to availability of any vacancy as mentioned by the petitioner, in the nearby villages in Lalgudi Taluk, the second-respondent shall consider on merits and pass appropriate orders at the earliest, transferring the petitioner to such a village in the same Taluk Lalgudi, within a period of 12 weeks from the date of receipt of a copy of this order.



8. With the above directions, the Writ Petition is disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

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Sd/-

Assistant Registrar (CS I)

// 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 Revenue Officer,
Trichy District,
Trichy.
2. The Revenue Divisional Officer,
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Trichy District.
3. The Tahsildar,
Lalgudi Taluk Office,
Lalgudi,
Trichy District.

+1 CC to M/s.GP (SR-26638[F] dated 18/08/2021)

W.P. (MD) No.13154 of 2021

and

W.M.P.Nos.101062 and 10163 of 2021

16.08.2021

RS (22.09.2021) 4P 5C