

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
14.09.2021	29.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.15609 of 2021

and

W.M.P. (MD) Nos.12554 & 12556 of 2021

S.Pappy

... Petitioner

-vs-

1.The District Collector
Tuticorin District
Tuticorin

2.The Personal Assistant
(Development) to the Collector
Tuticorin District
Tuticorin

3.The Block Development Officer
Ottapidaram Panchayat Union
Tuticorin District

4.The President
Saminatham Panchayat
Tuticorin District

5.The President
Jambulingapuram Panchayat
Tuticorin District

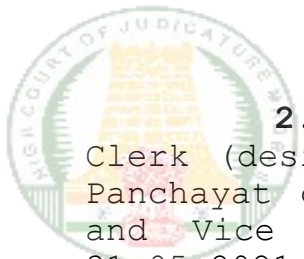
... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records pertaining to the impugned order passed by the third respondent vide his proceeding in Na.Ka.No.Thi3/2361/2021, dated 23.08.2021 and quash the same as illegal.

For Petitioner : Mr.C.Mayilvahana Rajendran
For Respondents : Mr.A.K.Manikkam
Government Counsel for R1 & R2
Mr.D.Gandhiraj for R3

O R D E R

The prayer in this writ petition is for issuance of a writ of certiorari to quash the order dated 23.08.2021, passed by the third respondent, transferring the petitioner from the fourth respondent Panchayat to the fifth respondent Panchayat.



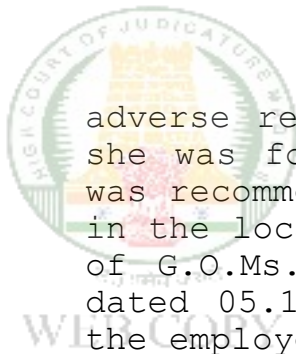
2. According to the petitioner, she was appointed as a Clerk (designated as Panchayat Secretary) in the fourth respondent Panchayat during 1999. There was a dispute between the President and Vice President of the fourth respondent Panchayat. On 31.05.2021, the husband of the Vice President was assaulted by one Subramanian and three others and in this regard, a case was registered in Crime No.83 of 2021, on the file of the Puthiyamputhur Police Station, for the offence under Sections 341, 294(b), 323 and 506(ii) I.P.C. Suspecting that the petitioner is supporting the Vice President, the President of the fourth respondent Panchayat made a complaint, dated 14.06.2021, to the first respondent. Based on the said complaint, the first respondent, without issuing any notice, conducted an enquiry and vide order dated 09.08.2021, issued a direction to the third respondent to transfer the petitioner. Pursuant to the said direction, the third respondent passed the impugned transfer order transferring the petitioner from the fourth respondent Panchayat to the fifth respondent Panchayat. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the impugned transfer order is illegal and arbitrary. According to the learned counsel, the third respondent cannot delegate his power, as no such delegation is permissible under Rule 11 of the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013. As per Rule 11 of the Tamil Nadu Village Panchayat Secretaries (Condition of Service) Rules, 2013, transfer of a person holding the post shall be made only on administrative grounds supported by valid reasons and after proper enquiry by the Authorities concerned. Further, in the impugned transfer order, absolutely there is no administrative reason supported by valid materials.

4. In support of his contentions, the learned counsel has placed reliance upon the following decisions:

- (i) ***S.Sevugan vs. The Chief Educational Officer, Viruthunagar and others [2007 Writ L.R.1034];*** and
- (ii) ***Order dated 25.07.2019 in W.P.No.8444 of 2019 [S.Sannasi vs. The District Collector, Salem and others].***

5. The third respondent has filed a counter affidavit stating that the petitioner is the sister of one Murugan, who was the Village Panchayat President of the fourth respondent Panchayat and since the said post was reserved for women in the Local Bodies Election-2019, the said Murugan nominated his mother to contest and she was defeated by the present Panchayat President and therefore, the petitioner was creating hindrance to the smooth functioning of the Village Panchayat. Further, the petitioner's husband is the Over Head Tank Operator as well as the Pump Operator in the Village Panchayat for the past 25 years. Further, the petitioner has made



adverse remarks against the President of the Village Panchayat and she was found to have involved in causing problems and hence, she was recommended to be transferred in order to maintain law and order in the locality. Further, the transfer order was made only in terms of G.O.Ms.No.175, Rural Development and Panchayat Raj Department, dated 05.12.2006. Since transfer is only an exigency of service, the employee need not be put on notice. The transfer is only within the Panchayat Union limit and therefore, it would not cause any prejudice to the petitioner.

6. Further, it is contended in the counter affidavit that the Honourable Supreme Court in catena of decisions has categorically held that a Government servant holding transferable post has no vested interest or right to remain posted at one place and that the transfer order issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or order, the Courts should not interfere with the order, instead the affected party should approach the higher authorities in the Department. On these grounds, the third respondent prayed for dismissal of the writ petition.

7. Heard the learned counsel on either side and carefully perused the materials available on record.

8. The primordial issue to be decided in this case is as to whether the respondents have violated Rule 11 of the Tamil Nadu Village Panchayat Secretaries (Condition of Service) Rules, 2013 or not.

9. On examining the original files produced by the learned Government Counsel appearing for the respondents, it is seen that on 26.07.2021, the District Collector, Tuticorin, has conducted a meeting, in which the complaint lodged by the husband of the Vice President against the husband of the Panchayat President was placed for consideration. Further, it is seen that based on the report of the Assistant Director (Panchayat) stating that the petitioner alone was the root cause, it was resolved to transfer the petitioner. Thereafter, it is seen that the petitioner vide letter dated 02.09.2021 applied for medical leave for the period from 03.09.2021 to 16.09.2021. Further, it is seen that the Block Development Officer, Ottapidaram Panchayat Union has sent a letter, dated Nil, to the Personal Assistant to the Collector (Noon Meals), Ottapidaram Panchayat Union, reporting the enquiry conducted on the complaint given against the President and the Panchayat Secretary of Saminatham Panchayat.

10. In **Sevugan's** case (cited supra) relied on by the learned counsel for the petitioner, there was a complaint given by the Headmaster against the petitioner therein alleging that he had



misbehaved with lady teachers and based on which, the transfer order was passed. But, in the present case on hand, there is no allegation of misconduct and therefore, the said decision is not applicable to the facts and circumstances of the present case.

11. In **Sannasi**'s case (cited supra) relied on by the learned counsel for the petitioner, Rule 11(2) of the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013 has not been complied with. But, in the present case, after receiving report from the Assistant Director (Panchayat), the impugned transfer order came to be passed. Rule 11(2) of the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013 has been followed. Hence, there is no force in the contentions of the learned counsel for the petitioner to interfere with the impugned order.

12. Therefore, this Court is of the opinion that the transfer of the petitioner herein is supported by valid reasons and after it was made after conducting proper enquiry by the Authorities concerned and hence, the impugned transfer order is purely on administrative grounds and the respondents have not violated Rule 11 of the Tamil Nadu Village Panchayat Secretaries (Condition of Service) Rules, 2013 as alleged by the petitioner. That apart, it is seen that the dispute is between the President and Vice President of the Panchayat, consequent to which, the impugned transfer has been passed and therefore, such a transfer cannot be termed to be punitive in nature. In such circumstances, this Court does not find merit in the the contentions made by the petitioner and the decisions cited by the learned counsel for the petitioner do not render any assistance to his case.

13. For the reasons as stated above, the writ petition fails and it is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CRL)

// 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.

krk

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



To:

1.The District Collector,
Tuticorin District,
Tuticorin.

2.The Personal Assistant
(Development) to the Collector,
Tuticorin District,
Tuticorin.

+1 CC to M/s.SPL.GP (SR-33345[F] dated 01/11/2021)

+1 CC to M/s.C.MAYIL VAHANA RAJENDRAN, Advocate (SR-33607[F] dated
02/11/2021)

W.P.(MD) No.15609 of 2021
and

W.M.P.(MD) Nos.12554 & 12556 of 2021
29.10.2021

DKS (CO)
KB(18.11.2021) 5P 5C