



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 16.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P (MD) No.21822 of 2021
and
W.M.P (MD) No.18411 of 2021

P.Kesavarajan ... Petitioner

Vs

1.The Director of Fire and Rescue Services,
Egmore, Chennai - 600 008.

2.The Deputy Director of Fir and Rescue Services,
South Zone, Madurai.

3.The District Officer,
Fire and Rescue Services,
Kanyakumari District @
Nagercoil

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ Of Certiorari to call for the records pertaining to the impugned order in Na.Ka.No.222/E3/2021, dated 23.11.2021 on the file of the respondent No.1 and quash the same as illegal insofar as the petitioner is concerned.

For Petitioner : Mr.T.Lajapathi Roy
For Respondents : Mr.S.Saji Bino,
Special Government Pleader

ORDER

This writ petition has been filed challenging the order transferring the petitioner from Nagercoil to Korukkupettai at Chennai.

2.The learned Counsel for the petitioner submits that the petitioner was working as a Special Station Officer (Leading Fireman) at Nagercoil and he has been transferred and posted at Chennai, which is 750 Kms away. The grievance of the petitioner is that the petitioner is a resident of Kanyakumari district, his son and daughter are studying in Kanyakumari district and in the middle of the academic year the petitioner has been transferred. The order of transfer is punishment in nature.



3.The learned Special Government Pleader appearing for the respondents submits that the respondents have received a complaint from one Baskar that this petitioner had demanded a sum of Rs.2,000/- for rescuing a child and extorted Rs.1850/- from him. Based on the complaint, departmental proceedings were initiated and preliminary enquiry revealed that there were *prima facie* materials as against the petitioner. Therefore, the petitioner was transferred by the order impugned in this writ petition for fair conduct of departmental proceedings.

4.Heard the submission made on either side and perused the materials placed on record.

5.Though the petitioner claims that the petitioner has been transferred by way of punishment, the learned Special Government Pleader submits that based on the complaint received against petitioner, departmental proceedings were initiated and pending departmental proceedings, the petitioner has been transferred, as there were *prima facie* materials as against him and for smooth conduct of the enquiry. The same cannot be treated as order of punishment in view of the ratio laid down by the Hon'ble Apex Court in the ***Registrar General, High Court of Judicature of Madras vs. R.Perachi and others***, reported in **(2011) 12 SCC 137**, wherein the Hon'ble Apex Court has held as follows:

"As seen above, the transfer was purely on the administrative ground in view of the pending complaint and departmental enquiry against first respondent. When a complaint against the integrity of an employee is being investigated, very often he is transferred outside the unit concerned. That is desirable from the point of view of the administration as well as that of the employee. The complaint with respect to the first respondent was that he was dominating the administration of the District Judiciary, and the District Judge had reported that his retention in the district was undesirable, and also that departmental enquiries were pending against him and other employees, with respect to their integrity. In the circumstances the decision of the then Chief Justice to transfer him outside that district could not be faulted."

6. The allegations as against the petitioner appears to be grave in nature. Therefore, this Court is not inclined to interfere with the order of transfer. The respondents are at liberty to proceed with the departmental proceedings and conclude the same as expeditiously as possible.



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7.In the result, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Deputy Registrar (LA&MC)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

dsk

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 of Fire and Rescue Services,
Egmore,
Chennai - 600 008.
- 2.The Deputy Director of Fir and Rescue Services,
South Zone,
Madurai.
- 3.The District Officer,
Fire and Rescue Services,
Kanyakumari District @
Nagercoil.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-39205[F] dated 17/12/2021)

+1 CC to M/s.SPL GP (SR-39526[F] dated 20/12/2021)

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RD(25.03.2022) 3P 6C