



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.24247 of 2019

and

W.M.P. (MD) Nos.20856 & 20858 of 2019

and

W.P. (MD) No.24250 of 2019

and

W.M.P. (MD) Nos.20860 & 20861 of 2019

LM.Salim ... Petitioner W.P.(MD)
No.24247 of 2019

S.Krishnamoorthy ... Petitioner W.P.(MD)
No.24250 of 2019

-vs-

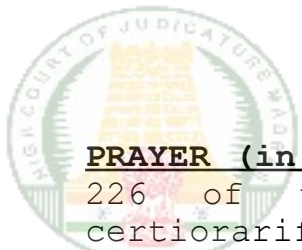
1.Principal Chief Security Commissioner
Railway Protection Force
Southern Railway
Moore Market Complex
Chennai-600 003

2.The Divisional Security Commissioner
Railway Protection Force
Southern Railway
Thiruchirapalli Division, Thiruchirapalli

3.The Assistant Security Commissioner
Railway Protection Force
Southern Railway
Thiruchirapalli Division, Thiruchirapalli

4.The Inspector (Colony)
Railway Protection Force
Central Railway Work Shop
Golden Rock / Ponmalai
Thiruchirapalli-4

... Respondents in both W.Ps.



PRAYER (in W.P. (MD) No.24247 of 2019): Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus challenging the impugned transfer order No.SXT/P.677/PMT/HC/2019 & OO.No.114/2019, dated 04.11.2019, issued by the Divisional Security Commissioner, Railway Protection Force, Southern Railway, Thiruchirapalli Division, the second respondent herein and impugned relieving order No.IPF/GOC(W)/24/2019, dated 07.11.2019, issued by the fourth respondent herein and quash the same and seeking a direction to the respondents 1 and 2 to retain the petitioner at Central Railway Workshop, Golden Rock / Ponmalai, Thiruchirapalli itself till completion of his tenure of five years service.

PRAYER (in W.P. (MD) No.24250 of 2019): Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the impugned transfer order No.SXT/P.677/PMT/HC/2019, dated 04.11.2019, issued by the Divisional Security Commissioner, Railway Protection Force, Southern Railway, Trichirapalli Division, the second respondent herein and impugned relieving order No.IPF/GOC(W)/24/2019, dated 06.11.2019, issued by the fourth respondent herein and quash the same and seeking a direction to the respondents 1 and 2 to retain the petitioner at Central Railway Workshop, Golden Rock / Ponmalai, Trichirapalli itself till completion of his tenure of five years service.

For Petitioner : Mr.Y.Krishnan
(in both W.Ps.)

For Respondents : Mr.S.Manohar
(in both W.Ps.) Standing Counsel

C O M M O N O R D E R

Since the issue involved in both the writ petitions are identical, they are clubbed together and are being disposed of by this common order.

2. These writ petitions have been filed challenging the impugned transfer orders and the consequential relieving orders issued against the petitioners.

3. The learned counsel appearing for the petitioners would submit that the petitioners were working as Constable in Golden Rock, Trichy and they have been transferred to Mayiladuthurai Railway Station. According to the learned counsel, the impugned transfer orders are illegal, arbitrary and against the provisions of the Railway Protection Force Act, 1957, its Rules 1987 and Directive No.32. The impugned orders have been issued with *mala fide*



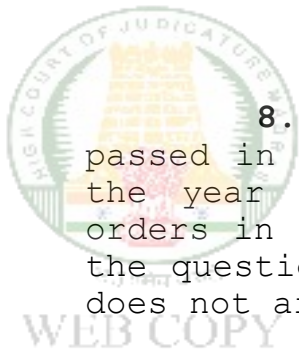
intention and they are in punitive in nature. On these grounds, the learned counsel prayed for setting aside of the impugned orders.

4. The learned Standing Counsel appearing for the respondents submitted that the impugned orders have been issued on administrative grounds and there is no *mala fide* intention as contended by the petitioners. Furthermore, departmental proceedings were initiated against the petitioners for the violation of Rules 145, 146.1, 146.2(i) and 147(i) of RPF Rules, 1987 by the petitioners and they were imposed with penalty of reduction of pay by one stage in the same pay level for a period of one year. On these grounds the learned Standing Counsel prayed for dismissal of the writ petitions.

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

6. On perusal of the materials available on record, this Court is of the view that the the impugned transfer orders were passed on administrative grounds and in the interest of administration. It is pertinent to note that transfers are imminent in respect of public servants. In certain circumstances, there may not be any evidence to prosecute the employee or to initiate departmental disciplinary proceedings. However, the competent authorities may of the opinion that further continuance of a public servant in a particular place would cause inconvenience as well as cause some difficult situation for the peaceful functioning of the public administration. Thus, in those circumstances, transfers alone are the remedies in the interest of public administration.

7. That apart, administrative transfers are the prerogative of the Department concerned and the competent authorities are the best persons to assess and act accordingly. However, those competent authorities should act in the interest of public and in the event of any illegality or some personal motive, then alone, the employee can approach the Court of law for appropriate remedy. In other words, if an order of transfer is issued with *mala fide* intention or in violation of the statutory rules, then alone a writ petition can be entertained. Even in such cases, the allegation of *mala fide* intention must be substantiated in the writ proceedings and the official concerned must be impleaded as party respondents in the writ proceedings. In the absence of any such legal ground, routine administrative transfers can never be interfered with by the Constitutional Courts. Transfer is an incidental to service, more so, a condition of service. Public servant is liable to work wherever he is posted in the interest of public administration. On accepting the offer of appointment, a person is agreeing for the conditions of service and transfer being incidental, he must be in a position to work, wherever he is posted.



8. That apart, in the case on hand, the impugned orders were passed in the year 2019 and the writ petitions came to be filed in the year 2019 and the petitioners could not obtain any interim orders in their favour so far. Therefore, at this distance of time, the question of granting direction as sought for by the petitioners does not arise.

9. In **State of U.P. and others vs. Siya Ram and others [(2004) 7 SCC 405]**, the Honourable Supreme Court has held that unless the 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.

10. Further, in **Airports Authority of India vs. Rajeev Ratan Pandey and others [(2009) 8 SCC 337]**, the Honourable Supreme Court has held that in the matter of transferring Government employees, the scope of judicial review is limited and the High Courts should not interfere with an order of transfer lightly.

11. In the instant case, on perusal of the materials available on records, this Court does not find any *mala fide* exercise or violation of any statutory provision on the part of the respondents and therefore, the impugned transfer orders and the consequential relieving orders do not warrant any interference of this Court and the writ petitions are therefore liable to be dismissed.

12. In fine, the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

// 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.



W.P.(MD) Nos.24247 & 24250 of 2019

+2 CC to M/s.S.MANO HAR, Advocate (SR-28908[F] & SR-28909[F]dated
14/09/2021)

+2 CC to M/s.Y.KRISHNAN, Advocate (SR-28992[F] & SR-28991[F] dated
14/09/2021)

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