



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2022

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THE HON'BLE MR JUSTICE D. KRISHNAKUMAR

W.P.Nos.2907 of 2020 and
WMP No.3361 of 2020

R.Christopher Raja
s/o Rajamani

... Petitioner

Vs.

The Commissioner of Municipal Administration,
Commissionerate of Municipal Administration,
MRC Nagar, Pattinapakkam, Chennai.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the impugned order passed by the respondent vide his proceedings in Na.Ka.No.23996/2019/F2 dated 27.12.2019 and quash the same and consequently, directing the respondent to transfer the petitioner from Salem to any one of the place nearby to petitioner native i.e. Sivakasi in the light of the guidelines stipulated in Letter (MS) No.92/S/09 dated 22.07.2009, within a period, as fixed by this court.

For Petitioner : Mr.S.M.Anantha Murugan

For Respondents : Mr.P.Balathandayutham,
Spl. Govt. Pleader

ORDER

This writ petition has been filed seeking to issue a Writ of Certiorari and quash the impugned order rejecting the request of the petitioner for transfer dated 27.12.2019.

2. The case of the petitioner in brief:

The petitioner is a physically challenged person having 40% of disability and while he was working at Kadayanallur



Municipality, he was transferred to Salem Municipality as Junior Engineer on 28.12.2017 and he has been working in that place for two years. The petitioner's native is Sivakasi, which is 392 kilometers away from Salem and it is very difficult to him to travel from Salem to Sivakasi on the weekends and holidays and further he is facing lot of difficulties in getting food daily. Hence, he gave representation for transfer, but it was rejected, citing that due to the action taken by the Vigilance and Anti Corruption department, he will not be transferred. Hence this writ petition.

3. The contentions raised in the counter affidavit, briefly as follows:

As per the advise of the Department of Vigilance and Anti Corruption, the petitioner was transferred to the non-sensitive and distant place, so that he cannot tamper the evidence as against him. Further, the proceedings in Crime No.16/2017 under Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 is pending against the petitioner. Therefore, petitioner could not be transferred to any one of the Municipality, as sought for him, as the said post is a sensitive post, which includes monitoring various works done in the Municipality and also field work in nature. Further, since there was no vacancy in the post of Junior Engineer, in any of the nearby Municipality of his native, his request was rejected.

4. The learned counsel appearing for the petitioner submitted that, as per Government Letter (MS) No.92 dated 22.07.2009, physically challenged Government Servants shall be posted near to their native places, wherever possible. However, the respondents have not considered the transfer application given by the petitioner and rejected it. Hence, he prayed to consider the plea of the petitioner for direction.

5. Heard the counsels appearing to the parties and I have perused the materials.

6. The petitioner was transferred to a non sensitive post, in view of the pendency of the criminal case against him, registered by the Department of Vigilance and Anti Corruption. Transfer is one of the service conditions and there is no compelling reason to consider the request of the petitioner to transfer him in any one of the vacancy place, nearby to his native place. Further, the contentions raised in the counter affidavit are well founded. When there is valid reasons stated in the impugned order for not considering the request of the



petitioner for transfer, this court do not find any irregularity of infirmity to interfere the same.

7. Accordingly, this writ petition is dismissed. No costs. Consequently, connected writ miscellaneous petition is closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

mst
To

The Commissioner of Municipal Administration,
Commissionerate of Municipal Administration,
MRC Nagar, Pattinapakkam, Chennai.

+lcc to the Government Pleader Sr.12004

W.P.No.2907 of 2020
&
W.M.P.Nos.3361 of 2020

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srg 16/03/2022