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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.5301 of 2022

and

W.M.P.Nos.5381 and 5382 of 2022

N.Srinivasan
Village Administrative Officer,
No.76, Thanneerkulam Village,
Thiruvallur Taluk and District.

...Petitioner

vs.

The Revenue Divisional Officer,
Thiruvallur Division,
Thiruvallur District

...Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records connected with the proceedings issued in Na.Ka.646/2021/A1 dated 02.03.2022 passed by the Respondent herein and quash the same and consequently direct the Respondent to allow the petitioner to retain in the No.76 Thaneerkulam Village as Village Administrative Officer.

For Petitioner : Mr.S.Ilamvaludhi

For Respondent : Mr.V.Manoharan

Additional Government Pleader

O R D E R

This writ petition has been filed seeking to issue a Writ of Certiorarified Mandamus, calling for the records connected with the proceedings in



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Na.Ka.646/2021/A1 dated 02.03.2022 passed by the respondent herein and quash the same and consequently, to direct the respondent to allow the petitioner to retain in No.76 Thaneerkulam Village as Village Administrative Officer.

2. According to the petitioner, the petitioner was working as Village Administrative Officer at Kunnavalam Village. Based on the request of the petitioner, the respondent by his proceedings in Na.Ka.No.646/2021/A1 dated 08.02.2022 transferred him to Thaneerkulam Village. He has also joined duty at Thaneerkulam Village on the same day. Subsequently, based on the objections of the Tamil Nadu Grama Nirvaga Aluvalargal Munnetra Sangam, Tiruvallur Taluk, again the petitioner was reverted to the Kunnavalam Village. Therefore, without any reason, the respondent has passed the impugned transfer order dated 02.03.2022 within a period of 30 days and he has been shifted to the original place at Kunnavalam Village. Hence, the writ petitioner challenged the impugned transfer order by way of filing the present writ petition on the ground that it is punitive in nature.

3. In the counter affidavit, it is admitted by the respondent that based on the objections received from the Tamil Nadu Grama Nirvaga Aluvalargal Munnetra Sangam, Tiruvallur Taluk, the impugned transfer order has been passed by reverting the petitioner to Kunnavalam Village.

4. Heard both sides and perused the materials available on record.

5. On perusal of the counter affidavit filed by the respondent reveals that the impugned transfer order is not on the administrative ground, it is only based on the objections made by the Tamil Nadu Grama Nirvaga Aluvalargal Munnetra Sangam, Tiruvallur Taluk. Therefore, said impugned transfer order is punitive in nature.



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6. It is useful to consider the decision of this Court made in W.P.(MD) Nos.10759 & etc., batch, dated 28.10.2021, wherein this Court by relying upon the various decisions of the Hon'ble Division Bench of this Court and following the decision of the Hon'ble Supreme Court, at Paragraph No.28 held as follows:

"28. In view of the above settled legal position, this Court is of the opinion that when transfers are effected after preliminary enquiry on the complaints / allegations, it should necessarily be followed up by a detailed investigation and disciplinary proceedings initiated on the allegations resultantly found to be substantiated. However, in the present case, prima facie it is found that disciplinary proceedings were initiated and charge memos were issued only when the matter was taken up for hearing that too after the matter was being adjourned on several occasions, which is contrary to the aforesaid G.O.Ms.No.10, dated 07.01.1994 and the clarificatory letter dated 09.08.1994. Even on perusal of the impugned transfer orders, it is seen that the same were passed on the administrative grounds, however, in the counter affidavit filed by the respondents, it is stated that based on the discreet enquiry report, the impugned transfer orders were passed. Further, according to the respondents, the impugned transfer orders were passed to avoid more complications in the prison administration. That apart, the respondents have not initiated disciplinary proceedings immediately after the incident had taken place and only in the month of September, 2021, by way of filing additional counter affidavit, it was brought to the notice of this Court that disciplinary proceedings have been initiated against the petitioner for the incident alleged to have been taken place in the month of April, 2021 and in the counter affidavit filed in the month of August, 2021, there is no whisper about the disciplinary proceedings against the petitioners and only after the matter was taken up for hearing, disciplinary proceedings were initiated and charge memos were issued to the petitioner. Hence, this Court comes to a conclusion



that the impugned transfer orders are punitive in nature and there is violation of the principles of natural justice on the part of the respondents and therefore, the respondents have not followed the clarification order issued by the Government and the decision in the case of Elumalai's case (supra) would therefore squarely apply to the facts and circumstances of the present case. Hence, the respondents have violated the principles of natural justice as observed in the aforesaid decision. Hence, for all these reasons, the impugned transfer orders are liable to be set aside."

7. In the light of the above said decision of this Court, the impugned transfer order is liable to be quashed. Accordingly, the impugned order in Na.Ka.No.646/2021/A1 dated 02.03.2022 passed by the respondent is quashed. The writ petition is allowed. Consequently, the connected miscellaneous petitions are closed. No costs.

-s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

dm

To

The Revenue Divisional Officer,
Thiruvallur Division, Thiruvallur District.

+1cc to S.Ilamvaludhi, Advocate, Sr.no.22954
+1cc to Government Pleader, Sr.no.23617

W.P.No.5301 of 2022

PP(CO)
KKV/07/04/2022