

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2022

CORAM

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.NO.33160 OF 2016

AND

W.M.P.NOS.28678 AND 28679 OF 2016

K.Yesoda

...Petitioner

Vs

1.The Personal Assistant (Noon Meal)
to the Collector, Vellore
Vellore District.

2.The Commissioner
Nemili Panchayat Union
Nemili, Vellore District.

3.N.Anjalai

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, to call for the records relating to the impugned order of the First Respondent in Ka. No. 1735/2016/PG1 dated 26.08.2016 and quash the same.

For Petitioner : Mr.P.Rajendran

For Respondents : Mr.G.Ameedius
Government Advocate (for R1)
Mr.J.H.Iniyan (for R2)
No appearance (for R3)

O R D E R

Heard Mr. P.Rajendran, Learned Counsel for the Petitioner, Mr. G.Ameedius, Learned Government Advocate appearing for the First Respondent and Mr. J.H.Iniyan, Learned Counsel appearing for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, while working as Cook in the Government Higher Secondary School, Sayanapuram, Nemili Panchayat Union was transferred from Vellore to Manjambadi by order in Na. Ka. No.

1735/2016/PG1 dated 26.08.2016 passed by the First Respondent, which is challenged in this Writ Petition.

3. This Court at the time of admission on 22.09.2016, had granted an order of status quo as on that date to be maintained.

4. In the Counter-Affidavit dated 21.03.2017 filed by the Second Respondent, it has been stated that by proceedings no. Na. Ka. 2317/2016/PG1 dated 03.11.2016, the Petitioner was posted at Noon Meal Center in Government Higher Secondary School, Sayanapuram.

5. The legal position is well established as held by the Hon'ble Supreme Court of India in Union of India -vs- S.L.Abbas [(1993) 4 SCC 357] that an order of transfer is an incident of service and unless it is vitiated by malafides or is made in violation of any statutory provisions, the Court cannot interfere with it.

6. Having due regard to the fact that a period of more than five years have lapsed from the time of passing of the impugned order, it is improbable that the same circumstances that then existed still continues. In that backdrop, there does not appear to be any useful purpose served by venturing into the task of testing the validity of the impugned order viz-a-viz the aforesaid legal position at this distance of time. Viewed from that perspective, it is made clear that the concerned authorities are not precluded from taking any fresh decision as the exigencies may require regarding the place of posting of the Petitioner in accordance with law and till then, the status quo as prevailing today shall be in force.

In the result, the Writ Petition is disposed with the aforesaid observations. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS-V)

// True Copy //

Sub Assistant Registrar

Maya

To

1.The Personal Assistant (Noon Meal)
to the Collector, Vellore
Vellore District.

2.The Commissioner
Nemili Panchayat Union
Nemili, Vellore District.

+lcc to the Government Pleader Sr.No.45549 (21/07/2022)

W.P.No.33160 of 2016

RR(CO)
RVM(14/07/2022)