



WEB COPY



W.P.No.38347 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.38347 of 2016

and

W.M.P.Nos.32862 of 2016 and 3845 of 2018

V.Gopal

... Petitioner

Vs.

1.The Principal Secretary
Government of Tamil Nadu
Welfare of Differently-abled Persons Department,
Fort St. George, Chennai – 600 009.

2.The State Commissioner,
Commissionerate for the Differently-abled Persons,
K.K.Nagar, Chennai – 600 078.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the entire records culminated in the 2nd respondent's impugned transfer order in ref. Se.Mu.Aanai.No. 4319/NIR.1/2016, dated 26.10.2016 and quash the same.

For Petitioner

: Mr.P.Subburaj
For Mr.R.Prabhakaran

For Respondents

: Mr.P.Kumaresan
Additional Advocate General
Assisted by Mrs.S.Anitha
Special Government Pleader



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ORDER

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The order of transfer issued in proceedings dated 26.10.2016 is under challenge in the present writ petition.

2. The petitioner was holding the post of Principal (In-charge) was transferred from Poonamallee to Thanjavur. The petitioner instead of joining the transferred place at Thanjavur, filed the present writ petition, questioning the validity of the transfer order and this Court passed an order of status quo.

3. The learned Additional Advocate General appearing on behalf of the respondents brought to the notice of this Court that even before passing order of status quo, the other person, who was transferred to Poonamallee joined in the post of the writ petitioner. Therefore, the petitioner has to join in the post at Thanjavur and he failed to join and therefore, the Department could not able to initiate any further action. The petitioner had not joined in the transferred place at Thanjavur and remained absent for a longer period and thereafter, joined in the transferred place at Thanjavur and retired from service.



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4. The learned counsel for the petitioner states that the salary for the period during which the petitioner was not worked is to be granted by regulating the period.

5. This Court is of the considered opinion that a public servant is expected to serve in the place, wherever he is posted. Transfer is an incidental to service, more so, a condition of service. The petitioner was holding the responsible post of Principal (In-charge). If at all, he filed a case before the High Court and an order of status quo was granted, meanwhile, the other person was joined in the post of the writ petitioner, the petitioner ought to have joined in the transferred place at Thanjavur and in fact he had joined after remaining absent for longer period and under these circumstances, the principles of 'no work no pay' would be applicable. However, the period of absence is to be regulated in accordance with the rules for the purpose of settling the pensionary benefits.

6. Thus, the competent authority has to regulate the period for absence in accordance with the rules in force. As far as the impugned



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transfer order is concerned, the petitioner has already retired from service and thus, no further consideration is required.

7. Accordingly, the Writ Petition stands dismissed. No costs.

Consequently, connected Miscellaneous Petitions are closed.

27.10.2022
(2/3)

Jeni

Index : Yes

Speaking order

To

1.The Principal Secretary
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S.M.SUBRAMANIAM, J.

Jeni

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