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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2022

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THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No. 24634 of 2021

and

WMP.Nos. 25907 & 25909 of 2021

K.Chandrasekaran

..Petitioner

Vs

1. The Joint Director (Personnel Division)  
Office of the Joint Director of School Education,  
Tamil Nadu, Chennai-600006.

2. The District Education Officer,  
Chidambaram.

..Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the proceedings of the 1st Respondent in Na.Ka.No. 3071 / A4 / E3 / 2021 dated 12.11.2021 and the consequential order passed by the 2nd respondent in Na.Ka.No. 7609 / A1 / 2021 dated 12.11.2021 and quash the same

For Petitioner : Mr. M. Baskar

For Respondents : Mr.V. Nanmaran, AGP

O R D E R

Challenging the impugned transfer orders passed by the 1<sup>st</sup> & 2<sup>nd</sup> respondents, the present writ petition is filed.

2. The learned counsel for the petitioner has submitted that the petitioner while working as Assistant in the Office of the 2<sup>nd</sup> respondent, the officials of Directorate of Vigilance and Anti-Corruption conducted inspection in the office and found nearly Rs.1,10,000/- collected by the petitioner from various teaching and non-teaching staff towards payment of Auditor fees



for filing the individual Income Tax Returns for the year 2021. The learned counsel for the petitioner has further submitted that based on the said inspection and recommendation of the Commissioner, Directorate of Vigilance and Anti-Corruption, the 1<sup>st</sup> respondent has passed the impugned transfer order, transferring the petitioner from Chidambaram to Gummidipoondi. According to the learned counsel for the petitioner, the said impugned order is not on the administrative reasons, hence liable to be set aside.

3. Counter affidavit filed by the 1<sup>st</sup> respondent, wherein it is stated that based on several complaints received by DVAC office on the malpractices and corruption activities, the officials of DVAC had conducted sudden search at the 2<sup>nd</sup> respondent's office on 30.09.2021 and found the petitioner was in possession of un-accounted cash to the tune of Rs.1,10,000/- .

4. The learned additional Government Pleader has further submitted that based on the report received from the Vigilance and Anti Corruption team, the impugned order of transfer came to be passed by the 1<sup>st</sup> respondent on administrative grounds, therefore the impugned order does not require any interference by this Court.

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

6. Admittedly, there is no dispute that the officials of DVAC had conducted sudden search on 30.09.2021 and found the petitioner was in possession of unaccounted cash to the tune of Rs.1,10,000/- and based on the report submitted by the DVAC and documents, the 1<sup>st</sup> respondent found that the said act of the petitioner is contrary to the provisions of Rule 20(1) of Tamil Nadu Government Servant Conduct Rules 1973 and passed the impugned transfer order on administrative reasons.

7. At this juncture, it is pertinent to rely upon the decision of the Hon'ble Supreme Court in the case of Mrs. Shilpi Bose Vs.State of Bihar reported in AIR 1991 SC 532 has held that the Courts should not interfere with the transfer orders made on administrative reasons unless there is violation of any mandatory statutory rule or on the ground of malafide. The relevant portion of the judgment is extracted below;

"In our opinion, the courts should not interfere with a transfer order which are made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A Government servant holding a transferable



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post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order of executive instructions or orders, the Courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the Department...."

Further in the case of LM.Salim & another Vs. Principal Chief Security Commissioner, Railway Protection Force, Southern Railway Chennai & 3 others, wherein I had an occasion to deal with the similar issue in detail by relying upon various decisions of the Hon'ble Supreme Court and held that in the absence of any such legal ground, routine administrative transfers can never be interfered with by the Constitutional Courts. The relevant portion is extracted hereunder;

"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 malafide intention or in violation of the statutory rules, then alone a writ petition can be entertained. Even in such cases, the allegation of malafide 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.

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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 malafide 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."

8. In the present case on hand, the vigilance and Anti Corruption team after search, has confirmed the complaints received against the petitioner and based on the report and documents, the 1<sup>st</sup> respondent has passed the impugned order dated 12.11.2021, transferring the petitioner from Chidambaram to Gummidipoondi on administrative grounds. This Court finds no error in the impugned order passed by the 1<sup>st</sup> respondent.

9. Considering the facts and circumstances of the case and the decision of the Hon'ble Supreme Court cited and this Court cited supra, this Court cannot accept the request of the petitioner seeking interference of the impugned transfer, which is purely on administrative reasons and the same is liable to be rejected.



10. In view of the above, the writ petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-  
Assistant Registrar(Digits)

//True Copy//

Sub Assistant Registrar

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To

1. The Joint Director (Personnel Division)  
Office of the Joint Director of School Education,  
Tamil Nadu, Chennai-600006.
2. The District Education Officer,  
Chidambaram.

+1cc to the Government Pleader, S.R.No.8310

W.P.No.24634 of 2021

VBM(CO)  
SU(05/04/2022)