



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2022

CORAM

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

W.P. No. 22702 of 2017
and
W.M.P. No. 23836 of 2017

S.Sekar

...Petitioner

-vs-

1. The Commissioner,
Adi Dravidar Welfare Department,
Chepauk, Chennai - 600 005.

2. The District Adi Dravidar and Tribal Welfare Officer,
Cuddalore District.

... Respondents

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records pertaining to the impugned proceedings of the Second Respondent vide Na. Ka. W10/7918/2017 dated 18.08.2017, thereby cancelling earlier transfers, which were already given effect to, and quash the same.

For Petitioner : Mr. N.Ramesh

For Respondents : Mrs. C.Sangamithirai,
Special Government Pleader

O R D E R

Heard Mr. N.Ramesh, Learned Counsel for the Petitioner and Mrs. C.Sangamithirai, Learned Special Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, while as working as Cook in the Adi Dravidar Welfare Department, was transferred from Government Nandhanar Students Hostel, Chidambaram to Government Adi Dravidar Students Hostel, Panruti by Order in Na. Ka. W 10/7918/2017 dated 28.07.2017 passed by the Second Respondent and it was cancelled by another Order in Na. Ka. No. W10/7918/ 2017 dated 18.08.2017 passed by the Second Respondent, which is challenged in this Writ Petition.

3. This Court at the time for admission on 24.08.2017 had granted interim stay of the impugned order, which continues to be in operation as on date.



4. The Second Respondent has filed Counter-Affidavit dated 12.12.2017 in justification of the impugned order in this Writ Petition.

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 four 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 Petition is closed. No costs.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

vjt
To

1. The Commissioner,
Adi Dravidar Welfare Department,
Chepauk, Chennai - 600 005.
2. The District Adi Dravidar and Tribal Welfare Officer,
Cuddalore District.

+1cc to the Government Pleader, S.R.No.12382

W.P. No. 22702 of 2017

PVS[co]
NSK/01/06/2022