



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 24.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P (MD) No.6258 of 2020

and

W.M.P (MD) Nos.5469, 5470 and 10351 of 2020

B.Nagasubramanian

... Petitioner

Vs

1.The Commissioner,
Food Safety and Drug Administration,
359, Anna Salai,
Chennai - 600 009.

2.The Designated Officer,
Food Safety and Drug Administration Department,
Collectorate Campus, Korampallam,
Tuticorin -628 101.

3.Dr.Mariappan,
Designated Officer,
Food Safety and Drug Administration Department,
Collectorate Campus, Korampallam,
Tuticorin -628 101.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus, to call for the records pertaining to the impugned order of the 1st respondent dated 19.04.2020 served on 22.04.2020 bearing reference R.No.11268/2017/S11/FSSA and quash the same and consequently direct the respondents 1 and 2 permit the petitioner to continue Food Safety Officer in the Kayathar Block, Thoothukudi District.

For Petitioner	: Mr.J.Anand Kumar,
For Respondent	: Mr.S.Saji Bino,
Nos.1 and 2	Special Government Pleader
For Respondent	: Mr.Thalaimutharasu
No.3	

ORDER

This writ petition has been filed challenging the transfer of the petitioner dated 19.04.2020.



2.The learned Counsel for the petitioner submits that the petitioner, who is working as a Health Inspector has been transferred from Kayathar Block, Thoothukudi District to Chennai on 19.04.2020 and challenging the same the petitioner is before this Court.

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3.The learned Special Government Pleader appearing for the respondents submits that the petitioner has been transferred to Chennai for Corona Control Road duty only on temporary basis.

4.No Government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice, since transfer of a particular employee appointed to the class or category of transferable posts from one place to other is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration.

5.In **Gujarat Electricity Board v. Atmaram Sungomal Poshani**, reported in **1989 AIR 1433**, the Hon'ble Supreme Court has observed as under:-

"Transfer of a Government servant appointed to a particular cadre of transferable posts from one place to the another is an incident of service. No Government servant or employee of public undertaking has legal right for being posted at any particular place. Transfer from one place to other is generally a condition of service and the employee has no choice in the matter. Transfer from one place to other is necessary in public interest and efficiency in the public administration."

6.In **Union of India v. H.N. Kirtania**, reported in **1989 AIR 1774**, the Hon'ble Supreme Court has observed as under:-

"Transfer of a public servant made on administrative grounds or in public interest should not be interfered with unless there are strong and pressing grounds rendering the transfer order illegal on the ground of violation of statutory rules or on ground of malafide."

7.In **State Bank of India v. Anjan Sanyal, Appeal (Civil) No.226 of 1997, dated 12.04.2001**, the Hon'ble Supreme Court has held as under:-

"4. An order of transfer of an employee is a part of the service conditions and such order of transfer is not required to be interfered with lightly by a court of law in exercise of its discretionary jurisdiction unless the court finds that either the order is mala fide or that the service



rules prohibit such transfer or that the authorities, who issued the order, had not the competence to pass the order."

8.The Hon'ble Supreme Court, in the decision reported in (2004) 11 SCC 402 [**State of U.P. v. Gobardhan Lal**], has held as follows:-

"7.It is too late in the day for any government servant to contend that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires. Transfer of an employee is not only an incident inherent in the terms of appointment, but also implicit as an essential condition of service in the absence of any specific indication to the contra, in the law governing or conditions of service."

9.In **Namratha Verma v. State of U.P.** [SLP.No.36717 of 2017, dated 06.09.2021], the Hon'ble Supreme Court has held that "it is not for the employee to insist him / her and or not to transfer him / her at a particular place. It is for the employer to transfer an employee considering the requirement."

10.The transfer order may cause great hardship, as an employee would be forced to have a second establishment at a far distant place; education of his / her children may be adversely affected; may not be able to manage his / her affairs and to look after his / her family. This aspect was also considered by the Hon'ble Supreme Court in **State of M.P. v. S.S. Kaurav, 1995 AIR 1056**, wherein it has been held that it is not permissible for the Court to go into the relative hardship of the employee. It is for the administration to consider the facts of a given case and mitigate the real hardship in the interest of good and efficient administration.

11.In this case the petitioner has been transferred on administrative grounds, from Kayathar Block, Thoothukudi District to Chennai, only temporarily for Corona Control Road duty. Therefore, in view of the above cited decision, this Court is not inclined to entertain this writ petition.

12.In the result, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

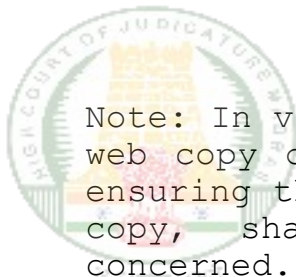
Sd/-

Assistant Registrar (A.D.II)

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/ /2022

Sub Assistant Registrar(CS)



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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To

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359, Anna Salai,
Chennai - 600 009.

2.The Designated Officer,
Food Safety and Drug Administration Department,
Collectorate Campus, Korampallam,
Tuticorin -628 101.

+1 CC to M/s.SPL.GP (SR-2411[F] dated 25/01/2022)

+1 CC to M/s.J.ANANDHAKKUMAR, Advocate (SR-2547[F] dated 27/01/2022)

+1 CC to M/s.G.THALAIMUTHARASU, Advocate (SR-2685[F] dated 27/01/2022)

**W.P (MD) No. 6258 of 2020
24.01.2022**

RD(07.03.2022) 4P 6C