



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 24.01.2022

CORAM:

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

W.P (MD)No.6521 of 2020

and

W.M.P (MD)Nos.5859, 5860 and 5861 of 2020

and 12412 of 2021

WEB COPY

K.Ponnambalam

... Petitioner

Vs

1.The State Commissioner,
Differently Abled Welfare Department,
Lady Wellington college Compound,
Kamarajar Salai, Chennai - 05.

2.The Administrative Officer,
Government Rehabilitation Home,
Manaiyeripatti, Thanjavur,
Thanjavur District.

3.Premalatha
Superintendent,
Government Rehabilitation Home,
Vinnamballi, Erode District.

4.K.Ganesan
Superintendent,
Government Rehabilitation Home,
Manaiyeripatti, Tanjavur,
Thanjavur District.

... Respondents

[R4 is impleaded vide Court order dated
11.09.2020 in W.M.P(MD) 7560 of 2020 in
W.P(MD) 6521 of 2020]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorari, calling for the records relating to the impugned proceedings bearing Se.Mu.Na.Ka.No.2511/Nir.2/2013, dated 29.05.2020 issued by the first respondent and quash the same.

For Petitioner	: Mr.K.Samidurai
For Respondent	: Mr.S.Saji Bino,
Nos.1 and 2	Special Government Pleader
For Respondent	: No representation
No.3	
For Respondent	: Mr.Ram Sundar Vijayaraj
No.4	



ORDER

This writ petition has been filed challenging the impugned transfer order dated 29.05.2020, in and by which, the petitioner was transferred from the Government Rehabilitation Home, Manaiyeripatti, Tanjore to the Government Rehabilitation Home, Vinnampalli, Erode.

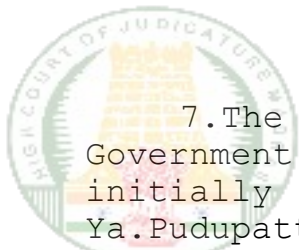
2.The learned Counsel appearing for the petitioner submits that the petitioner, who was working as Superintendent at the Government Rehabilitation Home, Manaiyeripatti, Tanjore was transferred to the Government Rehabilitation Home, Ya.Pudupatti, Madurai and the fourth respondent was transferred from Commissionerate of Differently Abled, Chennai to the Government Rehabilitation Home, Manaiyeripatti, Tanjore, i.e., in the petitioner's earlier place, vide proceedings in Se.Mu.No.2511/Nir.2/2013, dated 22.05.2020. Further subsequently, before the petitioner joins in the said place, the impugned order came to be passed transferring the petitioner from the Government Rehabilitation Home, Manaiyeripatti, Tanjore to the Government Rehabilitation Home, Vinnampalli, Erode and the third respondent has been transferred from the Government Rehabilitation Home, Vinnampalli, Erode to the Government Rehabilitation Home, Manaiyeripatti, Tanjore.

3.The learned Counsel for the petitioner further submits that only in order to accommodate the third respondent in the Government Rehabilitation Home, Ya.Pudupatti, Madurai, the subsequent impugned transfer order came to be passed within a period of one week, thereby depriving the petitioner's opportunity of getting the benefit of transfer to Madurai. Therefore, the petitioner is before this Court.

4.The learned Special Government Pleader appearing for the respondents submits that the transfer orders have been passed as per Section 48(3) of the Tamil Nadu Government Servants (Conditions of Services) Act, 2016. There is no other intention or *mala fide* in passing the impugned transfer order.

5.The learned Counsel appearing for the fourth respondent submits that since the petitioner has filed the writ petition challenging the impugned transfer order and also obtained an order of *status quo*, the fourth respondent, who was initially transferred from Chennai to Thanjavur, from where he has subsequently been transferred to Erode. The third respondent is working in Madurai and the petitioner is working in Thanjavur. The only affected party is the fourth respondent.

6.Heard the learned Counsel on either side and perused the materials placed on record.



7.The petitioner, who was working as Superintendent at the Government Rehabilitation Home, Manaiyeripatti, Tanjore was initially transferred to the Government Rehabilitation Home, Ya.Pudupatti, Madurai vide order dated 22.05.2020. Subsequently, before the petitioner joins in the said place, within a period of one week, on 29.05.2020, the impugned order came to be passed transferring the petitioner from the Government Rehabilitation Home, Manaiyeripatti, Tanjore to the Government Rehabilitation Home, Vinnampalli, Erode and the third respondent has been transferred from the Government Rehabilitation Home, Vinnampalli, Erode to the Government Rehabilitation Home, Manaiyeripatti, Tanjore on the same day.

8.In view of the order of *status quo*, granted by this Court the petitioner is continuing at Tanjore and the third respondent is continuing in Madurai. The fourth respondent is working at Erode.

9.No doubt the transfer is a condition to service. However, the respondents while effecting transfer order have to keep in mind the guidelines issued by the Government on transfers. The government has issued certain guidelines in G.O(MS)No.10 Personnel Administrative (S) Department, dated 07.01.1994 that a government employee can be transferred from a particular post or place after completion of three years in the said particular post or place. This petitioner was transferred by order dated 22.05.2020, from Thanjavur to Madurai and within a week therefrom, i.e., on 29.05.2020, he was again transferred to Erode without any valid reason. The frequent orders of transfer expose an element of *mala fide* and the contention of learned counsel for the petitioner that this petitioner was disturbed from Madurai and transferred to Erode, only in order to accommodate the third respondent herein.

10.These frequent transfer orders passed by the official respondents within a week, leads to an inference that some substance is there in the submission of the learned counsel for the petitioner. Therefore, this Court is of the view that the impugned transfer order is liable to be set aside.

11.In the result, this writ petition is allowed. The impugned transfer order is set aside. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Deputy Registrar (A/C)

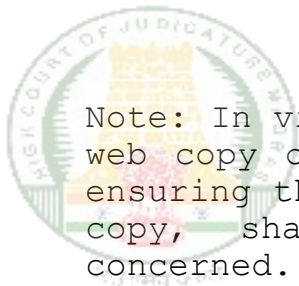
// True Copy //

/ /2022

Sub Assistant Registrar(CS)

dsk

<https://hcservices.ecourts.gov.in/hcservices/>



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.

WEB COPY

To

1.The State Commissioner,
Differently Abled Welfare Department,
Kamarajar Salai, Chennai - 05.

2.The Administrative Officer,
Government Rehabilitation Home,
Manaiyeripatti, Thanjavur,
Thanjavur District.

3.The Administrative Officer,
Government Rehabilitation Home,
Vinnampalli, Erode,
Erode District.

4.The Administrative Officer,
Government Rehabilitation Home,
Ya.Pudupatti, Madurai

+1 CC to M/s.RAM SUNDAR VIJAYARAJ (VEERA ASSOCIATES), Advocate
(SR-2518[F] dated 25/01/2022)

+1 CC to M/s.M.GNANAGURUNATHAN, Advocate (SR-2439[F] dated
25/01/2022)

+1 CC to M/s.SPL.GP (SR-2404[F] dated 25/01/2022)

**W.P(MD)No.6521 of 2020
24.01.2022**

sp(CO)

GC(15.03.2022) 4P 8C