



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 19.04.2022**

**CORAM**

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

W.P. (MD) No.7210 of 2022

W.M.P (MD).No.5447 of 2022

WEB COPY

P.Ramani

... Petitioner

Vs.

1.The Secretary to Government of Tamil Nadu,  
Social Welfare and Nutritious Meals Department,  
Secretariat,  
Fort St.George,  
Chennai-600 009.

2.The District Collector,  
Virudhunagar District,  
Virudhunagar.

3.The Project Officer,  
Child Development Department,  
Virudhunagar District.

4.The Block Development Officer,  
Kariyappatti,  
Virudhunagar District.

5.K.Umamaheswari,  
Nutritious Meal Organizer,  
Panchayat Union Primary School,  
S.Karisalkulam,  
Kariyapatti,  
Virudhunagar District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed in Na.Ka.No.763/2021/A5 dated 31.01.2022 on the file of the 4<sup>th</sup> respondent and quash the same as illegal to gave additional charge to the respondent no.5 for the post of Noon Meal Organizer at Amala Primary School, K.Sevalpatti, Virudhunagar District and consequently to direct the respondents to transfer the petitioner to Amala Primary School, K.Sevalpatti, Virudhunagar District or Kattalin Inimai Middle School, Kariyapatti, Virudhunagar District as Noon Meal Organizer as per the G.O.Ms.No.92/S/09 issued by the Tamil Nadu Government dated 22.07.2009 and G.O.Ms.No.163, Social Welfare and Nutritious Meal Programme Department dated 18.04.2010 or any other vacant place within 3km, within a stipulated time fixed by this Court.



For Petitioner : Mr.G.Divya Bharathy  
for Mr.V.Kishore Kumar

For Respondents : Mr.M.Ramesh  
Government Advocate  
for RR1 to 3  
Mr.B.Saravanan,  
Additional Government Pleader  
for R4

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O R D E R

The order impugned dated 31.01.2022 posting the fifth respondent to hold the additional charge as Non-meal Organizer at Amala Primary School, K.Sevalpatti is under challenge in the present writ petition.

2. The petitioner was appointed as Non-Meal Organiser at Panchayat Union Primary School, Pulloor, Virudhunagar District. The petitioner was transferred from Panchayat Union Primary School, Pudur to Government High School, Sithumootadaipu, which is a vacant post in order dated 28.07.2021. The petitioner has not challenged his transfer order issued on 28.07.2021. She joined in the transfer place at Government High School at Sithumootadaipu, and she is working in the said place for the past about eight months. While so, the fifth respondent is posted to hold additional charge at Amala Primary School, K.Sevalpatti in proceedings dated 31.01.2022. The petitioner has chosen to challenge the said order in the present writ petition.

3. The question arises whether the petitioner has got locus to challenge the order impugned dated 31.03.2022 posting the fifth respondent to hold the additional charge as Non-meal Organiser at Amala Primary School, K.Sevalpatti. The writ petitioner is no way connected with the order impugned. The order impugned is not even a transfer order. It is an order directing the fifth respondent to hold the additional charge at Amala Primary School, K.Sevalpatti.

4. The learned counsel appearing for the petitioner states that the petitioner made a representation to transfer her to K.Sevalpatti and the said application was not considered. Instead of posting the petitioner at K.Sevalpatti, the fifth respondent was posted as Additional Charge at K.Sevalpatti. Therefore, the petitioner has chosen to file the present writ petition.

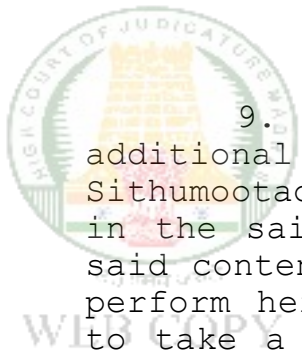
5. Posting an employee as Additional Charge is the administrative exigency. The fifth respondent was posted to hold additional charge due to retirement of one R.Sathananithi, on 31.01.2022.



6. Place or post can never be claimed as a matter of right. Transfer is an incidental to service, more so, a condition of service. Mere representation for transfer request would not confer any right to file a writ petition seeking a direction to post the petitioner in a particular place or post. High Court cannot interfere with the day-to-day administration of the Government Department. The Competent Authorities are the best persons to decide the administrative affairs and in the event of interference in such administrative prerogatives, the Authorities Competent would not be in a position to have effective control over the administration and its employees. This exactly is the reason why the Constitutional Courts across the country have held that a writ against the order of transfer is untenable, only if such transfers are tainted with *mala fides* or issued by incompetent Authority, but not otherwise. However, the practice of entertaining a writ petition against transfer orders and posting an employee as additional charge or deploying an employee on administrative exigencies can never be encouraged but to be dealt with in accordance with the principles laid down by the Hon'ble Supreme Court of India and in accordance with the Statutory provisions.

7. Section 48 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, provides transfer and posting. It is an administrative prerogative of the Government Department to issue transfer and posting to its employees. Therefore, it is the condition of service. It can never be claimed as an absolute right. Transfer being incidental, public servants are expected to serve wherever they are posted in the interest of public administration. As stated above, the scope of challenge is limited. In the event of unnecessary interference by the High Court, it will send a wrong message amongst the government servants as if they can challenge the transfer order at their whims and fancies. Transfers are issued for effective public administration. Frequent interference in this issue would cause hindrance and inconvenience to the smooth functioning of the public administration. Thus, the scope of challenge is undoubtedly limited. Only if an allegation of malafides is established with substantial proof and by impleading the concerned Authority, as against whom such allegation is raised or the order itself has been issued by incompetent Authority having no jurisdiction, then alone, a writ is to be entertained. In all other circumstances, the Authorities must be allowed to exercise the statutory powers for peaceful and smooth functioning of the public administration.

8. The learned counsel appearing for the petitioner made a submission that the petitioner is a differently tabled person and she cannot travel for long distance without the assistance of other persons.



9. However, the petitioner was not provided with any additional charge. The petitioner was transferred from Pulloor to Sithumootadaipu in proceedings dated 28.07.2021 and she is working in the said place for the past about eight months. While so, the said contention is untenable. If at all the petitioner is unable to perform her duties and responsibilities, it is for the Authorities to take a decision accordingly. If the Authorities found that the petitioner is not fit to perform her duties, then all suitable actions are to be initiated to prefer her case for medical board. For all these reasons, the circumstances may arise only if the petitioner refuses to perform her duties or express her total inability function as Non-meal Organiser.

10. Personal grievances cannot be redressed by the High Court in the writ petition. All such personal grievances are to be considered by the Competent Authorities and even, the High Court cannot direct the Authorities to consider those personal grievances as such grievances are to be enquired into before any consideration. All Government Orders issued in this regard are only the instructions and can never be claimed as a matter of right. Such instructions are given as concession to facilitate the employees to work in a peaceful manner and therefore, such instructions in the form of order cannot run counter to the provisions of the Tamil Nadu Servants (Conditions of Service) Act.

11. In view of the facts and circumstances, this Court is of the considered opinion that the petitioner has no *locus standi* to challenge the order posting the fifth respondent to hold Additional Charge at Amala Primary School, K.Sevalpatti, which is no way connected with the petitioner as the petitioner was transferred on 28.07.2021 and she is working at Sithumootadaipu. Non-consideration of her representation would not provide a cause for the writ petitioner to challenge the order passed by the Authorities, directing the fifth respondent to hold additional charge as Non-meal Organiser at K.Sevalpatti. Thus, the writ petition itself is misconceived and cannot be entertained.

12. Accordingly, the Writ Petition stands dismissed. No costs. Connected miscellaneous petition is closed.

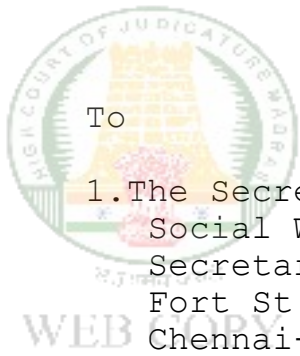
Sd/-

Assistant Registrar (AS)

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/ /2022

Sub Assistant Registrar(CS)



To

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4.The Block Development Officer,  
Kariyappatti,  
Virudhunagar District.

+1 CC to M/s.V. KISHORE KUMAR, Advocate ( SR-19490[F] dated  
19/04/2022 )

+1 CC to M/s.SPL.GP. ( SR-19752[F] dated 20/04/2022 )

W.P.(MD) No.7210 of 2022

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