



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.05.2022

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

AND

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A. [MD] .No.414 of 2022

and

C.M.P. [MD] .No.4157 of 2022

Dr.S.Vinukumar

..Appellant/ Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by its Secretary,
Directorate of Public Health and Preventive Medicine,
Secretariat,
Chennai - 600 009.

2.The Deputy Director,
The Deputy Director of Health Services,
Nagercoil,
Kanyakumari District.

3.The Block Medical Officer,
Government Primary Health Centre,
Rajakkamangalam Thurai,
Kanyakumari District.

4.A.Abina .. Respondents/Respondents

PRAYER: Appeal filed under Clause 15 of Letters Patent against the order of this Court dated 12.04.2022 made in W.P.(MD)No.22660 of 2021.

Prayer in WP(MD). 22660 OF 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of certiorarified Mandamus, to call for the records and to quash the impugned transfer and posting order in Ref.No.12282/A1/2021 dated 13-12-2021 issued by the 2nd Respondent and consequently direct the 2nd respondent to retain the petitioner in the same police as Incharge Medical Officer, Primary Health Centre, Ganapathipuram and pass such other further suitable orders as this Honourable Court may be pleased to pass in the circumstances of the case may warrant and thus render justice.



For Petitioner : Mrs.L.Victoria Gowri
For Respondents : Mr.M.Siddharthan
Addl. Govt. Pleader for R1 to R3
Mr.C.T.Perumal for R4

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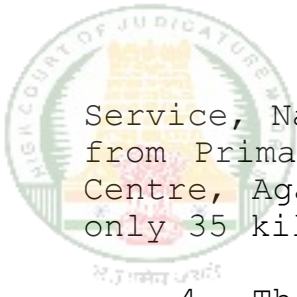
ORDER

[Order of the Court was made by **T.RAJA,J**]

Dr.S.Vinukumar/Petitioner having joined the Primary health Centre, Ganapathipuram as a Medical Officer, in the year 2014 has been awarded the best Doctor for overall best performance in the entire Kanyakumari District Family Welfare Department on several occasions.

2. The learned counsel appearing for the petitioner would submit that during the period when the petitioner was serving as Medical Officer at Ganapathipuram, Kanyakumari District he met with an accident and got 3 fractures on his spinal column. In spite of the accident and the three fractures, considering his job responsibility, he used to travel 8 kilometers from his place of residence, being Parvathipuram of Nagercoil, through car and he has been contributing lot to the department. Except there was a complaint in C.C.No.20 of 2020, on the file of Hon'ble State Forum of Consumer Disputes Madurai, preferred by one Esakkiammal against 5 persons including the District collector, Kanaykumari District, The Principal, Kanyakumari Government Hospital, Asaripallam, the Deputy Director, Health and Services, Nagercoil, the Medical Officer, Ganapathipuram, the petitioner is not facing any other proceedings. Recently, an enquiry was also initiated against him on the false complaint. Even in the enquiry, the petitioner has come out successfully and he has proved that the complaint made against him was false and frivolous. In spite of it, he has been transferred through the impugned order.

3. The learned Single Judge considering the general principles of law observed that the transfer is not only conditions of service and it is incidental to service. The order of the learned Single Judge would not show that the transfer is of punitive measure. It is settled legal position that if an officer/staff is facing any complaint, based on the complaint, he/she shall not be transferred as it would send a wrong message to the working staff/officer. But in the present case, we are not able to see any wrong in the transfer order passed transferring the petitioner from Primary Health Centre, Ganapathipuram to Block Primary Health Centre, Agasteeswaram as it is not vested with any of punitive measure. The impugned order clearly shows that due to administrative reasons, the petitioner is transferred to Block Primary Health Centre, Agasteeswaram. When petitioner has been working in Primary Health Centre, Ganapathipuram from 2014, the Deputy Director of Health



Service, Nagercoil passed the impugned order deputing the petitioner from Primary Health Centre, Ganapathipuram to Block Primary Health Centre, Agasteeswaram, which is also in the same district and it is only 35 kilometers away.

4. Therefore, we do not find any error in the order of the learned Single Judge. Hence, the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Vacation Officer/
Assistant Registrar (P&A)

// True Copy //

/ /2022
Sub Assistant Registrar(CS)

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To

- 1.The Secretary,
The Government of Tamil Nadu,
Directorate of Public Health and Preventive Medicine,
Secretariat, Chennai - 600 009.
- 2.The Deputy Director,
The Deputy Director of Health Services,
Nagercoil, Kanyakumari District.
- 3.The Block Medical Officer,
Government Primary Health Centre,
Rajakkamangalam Thurai,
Kanyakumari District.

+1 CC to M/s.C.T. PERUMAL, Advocate (SR-23454[F] dated 05/05/2022)

+1 CC to M/s.SPL.GP (SR-23512[F] dated 06/05/2022)

W.A. [MD].No.414 of 2022

Dated: 05.05.2022

srr (CO)

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