



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2022

CORAM :

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THE HON`BLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.10773 of 2021
and
W.M.P(MD)No.10072 of 2021

V.Brundhadevi : Petitioner

Vs.

1.The Joint Registrar of Co-operative Societies,
Karur,
Karur District.

2.The Regional Deputy Registrar (Housing),
No.16/1, Samath School Street,
Kaja Nagar,
Tiruchirapalli - 620 020.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari calling for the records relating to the impugned transfer order issued by the first respondent in Na.Ka.No.1120/2015/ a ba a dated 18.06.2021 and consequent orders issued by the second respondent in Na.Ka.No.1131/2018 a ba a dated 19.06.2021 and Na.Ka.No.0/2018/thu ba dated 19.06.2021 and quash the same.

For Petitioner : Mr.P.Mahendran

For Respondents : Mr.Veera Kathiravan,
Additional Advocate General

Assisted by,
Mr.S.Saji Bino,
Special Government Pleader

O R D E R

The petitioner has filed this writ petition challenging the impugned order dated 18.06.2021, in and by which, she was transferred to the Office of Karur Urban Development Bank in the post of Managing Director. The petitioner is also challenging the order dated 19.06.2021, in and by which, she was directed to hand over the charge of Administrative Officer, R-786 Tiruchirappalli Co-operative Housing Society to one Roach Sekar, Superintendent.

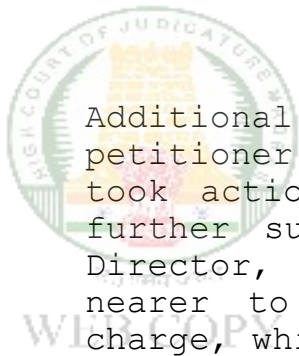


2. According to the petitioner, she was posted as Co-operative Sub Registrar (Housing), Karur and was given additional charge of Administrative Officer, R-786 Tiruchirappalli Co-operative Housing Society (Makkal Manram), Thillai Nagar, Tiruchirappalli. On 18.12.2020, the petitioner conducted inspection of the Housing Society and found several irregularities committed by the then Secretary. In this regard, she sent a detailed report to the higher officials on 06.01.2021 and after getting necessary permission, took action as against the Secretary T.Ramar by initiating departmental proceedings.

3. The grievance of the petitioner is that for having initiated action as against the then Secretary, she was transferred to Karur Urban Co-operative Bank. She is an unmarried and differently abled person [66% disability - permanent hearing impairment]. Due to her efforts, the maladministration and malpractices committed in R-786 Tiruchirappalli Co-operative House Building have been noticed and further action was contemplated. While so, in order to defeat the departmental proceedings and to punish the petitioner for having took action, she has been transferred.

4. Learned Additional Advocate General assisted by learned Special Government Pleader drew the attention of this Court to the counter affidavit filed by the respondents and submitted that the petitioner was promoted and posted as Co-operative Sub Registrar (Housing) Karur, under the control of the second respondent, under Foreign Service terms, on 06.06.2019. She was also given additional charge of Administrator of R-786 Tiruchirappalli Co-operative Housing Society Ltd. By the orders impugned, she was reverted to the parent department and now posted as Managing Director, Karur Urban Co-operative Societies, Karur. The transfer and posting of the petitioner is purely on administrative reasons.

5. With regard to the allegation raised by the petitioner that her transfer was effected as a vengeance and punitive measure for having unearthed certain serious irregularities in R-786 Tiruchirappalli Co-operative Housing Society, learned Additional Advocate General submitted that pursuant to the instructions issued by the Joint Registrar (Inspection Cell), the petitioner, in association with one Thiru Senthil, Co-operative Sub Registrar / Superintendent, O/o. Deputy Registrar (Housing), Tanjore, had conducted an inspection of the said Society on 11.12.2020. After the inspection, the petitioner sent a report on 06.01.2021 to the Registrar (Housing), Chennai, pointing out certain irregularities committed by the then Secretary of the Society, namely, Ramar. The report was placed before the second respondent for further action, who, in turn, instructed the petitioner to place the said Ramar under suspension. In pursuance of the instructions issued by the second respondent, the petitioner has placed him under suspension <https://www.hcma.org.in/actee> effect by order dated 23.02.2021. Therefore, learned



Additional Advocate General contended that it is not as if the petitioner was transferred for having taken action and in fact, she took action only on the directions of the second respondent. He further submitted that the petitioner is now posted as Managing Director, Karur Union Co-operative Bank, which is located very nearer to her residence, than that of the previous additional charge, which is in Trichy.

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

7. The petitioner has filed this writ petition challenging the order of transfer. The issue of transfer and posting has been considered time and again and the entire law has been settled by catena of decisions. It is entirely upon the competent authority to decide when, where and at what point of time, a public servant is to be transferred from his present posting. Transfer is not only an incident but an essential condition of service. It does not affect the conditions of service in any manner. The employee, holding a transferable post, does not have any vested right to be posted at a particular place.

8. 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."

9. 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."

10. 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."

11.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:-

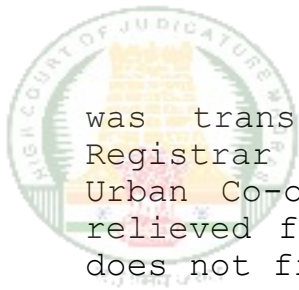
"7.It is too late in the day for any government servant to contend that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires. Transfer of an employee is not only an incident inherent in the terms of appointment, but also implicit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

12.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."

13.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.

14.It is settled position of law that the Courts have to restrain from interfering with an order of transfer made on administrative grounds, unless there exists malafidness or lack of jurisdiction. In the case on hand, the petitioner did not raise the ground of jurisdiction, but has raised the ground of mala fide. It is her case that she has taken action against one Ramar, Secretary of R-786, Tiruchirapalli Co-operative Housing Society and suspended him. For having taken action as against the said Ramar, she has been transferred as a punitive measure. But, the respondents have taken a stand that it is on their instructions only, the petitioner has initiated action.

15.Though the petitioner has filed a rejoinder to the counter affidavit of the respondents, she has not specifically rebutted the stand taken by the respondents. To be noted, the petitioner took action as against the then Secretary, in her capacity as Administrator of the Society, which is her additional charge. She



was transferred from her regular charge of Co-operative Sub Registrar (Housing), Karur and posted as Managing Director, Karur Urban Co-operative Bank. In view of the transfer order, she was relieved from her additional charge as well. Therefore, this Court does not find any mala fide in the impugned order of transfer.

16. In such view of the matter, this Court is not inclined to entertain this writ petition and the same is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(P & A)

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/ /2022

Sub Assistant Registrar(CS)

gk

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.

To

1.The Joint Registrar of Co-operative Societies,
Karur, Karur District.

2.The Regional Deputy Registrar (Housing),
No.16/1, Samath School Street,
Kaja Nagar,
Tiruchirapalli - 620 020.

+1 CC to M/s.SPL.GP (SR-2391[F] dated 25/01/2022)

+1 CC to M/s.P.MAHENDRAN, Advocate (SR-2279[F] dated 25/01/2022)

W.P(MD) No.10773 of 2021

24.01.2022

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