



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P (MD)No.11314 of 2021

and

W.M.P. (MD)No.8836 of 2021

WEB COPY

S.Muthukrishnan

... Petitioner

versus

The Superintending Engineer,
Highways Department,
Construction and Maintenance,
Tirunelveli.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records passed by the respondent herein in Se.Mu.Aa.No.17/2021/A4 dated 28.06.2021 and quash the same insofar as the petitioner is concerned.

For Petitioner	:	M/s.M.Padmavathy
For Respondent	:	Mr.S.Saji Bino, Special Government Pleader

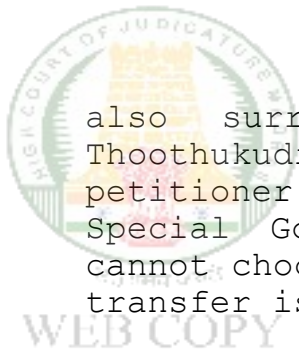
ORDER

This writ petition is filed against the order of transfer dated 28.06.2021.

2. The petitioner was initially appointed as Salai Paniyalar on 10.11.1997. Subsequently, he was promoted and posted as Driver on 28.01.2015 in the office of Assistant Divisional Engineer, Sivakasi Sub-Division, Virudhunagar District. While he was serving at Sivakasi Sub-Division, the respondent, by order dated 28.06.2021, transferred him from Sivakasi Sub-Division, Virudhunagar District to Srivaikundam Sub-Division, Thoothukudi District along with the jeep. Aggrieved by the same, the present writ petition has been filed.

3. The learned counsel for the petitioner further submits that the petitioner has been transferred from Virudhunagar to Thoothukudi, in order to accommodate the employer of a private contractor.

4. Mr.Saji Bino, learned Special Government Pleader appearing for the respondent submits that the Contractor under Performance Based Maintenance Contract (PBMC) had been given jeeps for supervising the contractual works. Therefore, the departmental jeep was provided to the Contractor and the petitioner was accommodated as Jeep Driver. Now, the contract itself is over and the Jeep was



also surrendered and allotted to Srivaikundam Sub-Division, Thoothukudi District along with the driver. Therefore, the petitioner was also transferred along with the Jeep. The learned Special Government Pleader further submits that the petitioner cannot choose to remain in the same place for years together and the transfer is an incident of service.

5. This Court paid its anxious consideration to the rival submissions made.

6. The petitioner was initially appointed as Salai Paniyalaar on 10.11.1997. Subsequently, he was promoted and posted as Driver to the Jeep bearing Reg.No.TN07G 1242. The Jeep was allotted to the Contractor under Performance Based Maintenance Contract. After the completion of contract, the Jeep was also surrendered and allotted to Srivaikundam Sub Division, Thoothukudi District. Hence, the petitioner was transferred along with the Jeep. The transfer is an incident of service and it is also a condition of service. Therefore, this Court is not inclined to interfere with the impugned order of transfer. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CrI.)

// True Copy //

/ /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.

To

The Superintending Engineer,
Highways Department,
Construction and Maintenance,
Tirunelveli.

+1 cc to SPECIAL GOVERNMENT PLEADER, SR.No.3693

W.P (MD) No.11314 of 2021

01.02.2022

SA(18.03.2022) 2P 3C