



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2022

CORAM :

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THE HON`BLE MR.JUSTICE B.PUGALENDHI

W.P(MD) No.14066 of 2021 and
WMP(MD) Nos.11035, 11036 & 13074 of 2021

M.Subbulakshmi

Petitioner

Vs.

1.The Commissioner of Backward Classes and Minority Welfare,
Backward Classes and Minority Welfare office,
Kamarajar Salai,
Ezhilagam-Annexe-II Floor,
Chepauk, Chennai - 600 005.

2.The District Backward Classes and Minority Welfare Officer,
Office of the District Backward Classes,
and Minority Welfare Department,
Virudhunagar Town and District.

3.B.Jeyanthi

Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus , to call for the records pertaining to the impugned order passed by the second respondent vide Na.Ka.M4/3514/2020, dated 27.07.2021 and quash the same as illegal and consequently direct the first respondent to allow the petitioner to continue to serve in the same place.

For Petitioner :Mr.R.Rajaraman

For R1 & R2 :Mr.S.Saji Bino
Special Government Pleader

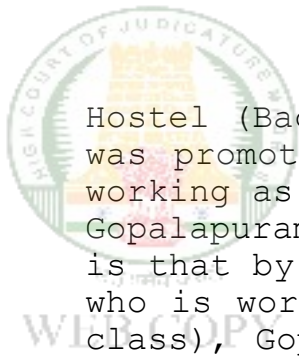
For R3 :No appearance

O R D E R

This writ petition is filed as against the order of transfer, dated 27.07.2021.

2.The case of the petitioner is that she was appointed as Cook at Kariyappatti Village on 01.06.1988 in the Government Girls

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



Hostel (Backward class), Virudhunagar District and subsequently, she was promoted as watchwoman in the year 1992 and at present she is working as a watchwoman at Government Girls Hostel (Backward class), Gopalapuram, Virudhunagar District. The grievance of the petitioner is that by the order impugned in this writ petition, the petitioner, who is working as a watchwoman at Government Girls Hostel (Backward class), Gopalapuram, Virudhunagar District was disturbed and posted at Government Girls Hostel (Backward class), Muthuramalingapuram, Virudhunagar District, at the instance of the third respondent, namely Jeyanthi.

3. According to the learned counsel for the petitioner, she is working under the respondent Department for the past 14 years and now she is in verge of retirement. The third respondent was promoted and transferred from the post of Cook to the post of watchwoman on 21.06.2021 and she joined as watchwoman at Government Girls Hostel (Backward class), Muthuramalingapuram, Virudhunagar District. On 12.07.2021, she made a request to accommodate her in Gopalapuram. At her request, the petitioner, who is working at Gopalapuram is disturbed and posted at Muthuramalingapuram in the place of the third respondent, by order dated 27.07.2021. The learned counsel for the petitioner submits that only based on the request made by the third respondent and to accommodate her in the place of the petitioner, the petitioner has been disturbed.

4.The learned counsel for the petitioner submits that though there are several persons are working for more than 14 years at Gopalapuram, the petitioner has been disturbed at the stage of retirement. Hence, the impugned transfer order is liable to be quashed.

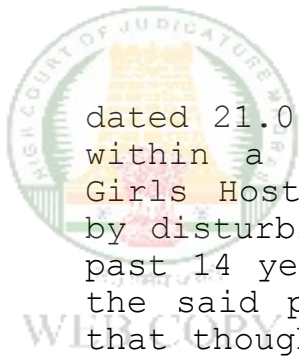
5. Per contra, Mr.S.Saji Bino, learned Special Government Pleader appearing for the respondents 1 & 2 submits that the petitioner is working at Government Girls Hostel (Backward class), Gopalapuram, Virudhunagar District, for the past 14 years and therefore, she was disturbed. He further submits that the order of transfer has been passed only on administrative grounds and therefore this Court is not supposed to interfere with the transfer order.

6.This Court paid its anxious consideration to the rival submissions made and also perused the materials placed on record.

7. In order to provide an opportunity to the third respondent, notice was also ordered to the third respondent. Though notice has been served to the third respondent and her name is also printed in the cause list, there is no representation on behalf of the third respondent.

8.A perusal of the impugned order discloses that the third respondent was promoted and posted as a watchwoman by proceedings

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



dated 21.06.2021 and a request was made from her on 12.07.2021, i.e within a month. Accordingly, she was accommodated at Government Girls Hostel (Backward class), Gopalapuram, Virudhunagar District, by disturbing the petitioner, who is working at Gopalapuram for the past 14 years. According to the learned counsel for the petitioner, the said post comes under Group D category. It is also reported that though the posts are transferable, they are not disturbing the employees under Group D category unnecessarily. According to him, though there are several persons are working for more than 14 years at Gopalapuram, the petitioner, who is at the verge of retirement has been disturbed. Only to accommodate the third respondent, the impugned transfer order came to be passed by the authority transferring the petitioner from Gopalapuram to Muthuramalingapuram. If it is a transfer on request, it must be mutual request and it cannot be by way of one individual request alone.

9. Considering the fact that the petitioner is aged about 57 years and she is in the retirement stage and also taking into consideration of the fact that within a short span of time, the third respondent was accommodated at Government Girls Hostel (Backward class), Gopalapuram, Virudhunagar District, based on her request, by disturbing the petitioner, this Court is inclined to allow the writ petition. Accordingly, the impugned transfer order passed by the second respondent in Na.Ka.M4/3514/2020, dated 27.07.2021 is set aside. The writ petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (P&A)

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/ /2022

Sub Assistant Registrar(CS)

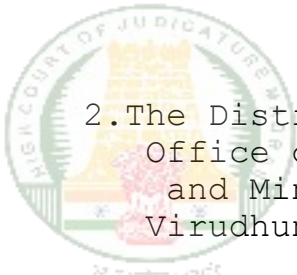
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Note:

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 Commissioner of Backward Classes and Minority Welfare,
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2.The District Backward Classes and Minority Welfare Officer,
Office of the District Backward Classes,
and Minority Welfare Department,
Virudhunagar Town and District.

+1 CC to M/s.R.RAJARAMAN, Advocate (SR-410[F] dated 05/01/2022)

+1 CC to M/s.SPL.GP (SR-580[F] dated 06/01/2022)

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