



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:07.04.2022

CORAM:

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

W.P.(MD)No.15980 of 2019

Nagasubramanian

... Petitioner

Vs.

1.The Commissioner

Food Safety and Drug Administration
DMS Campus,Teynampet, Chennai 6

2.The Designated Officer,

Food Safety and Drug Administration
District Collector Office Campus,
Korampallam, Tuticorin,
Tuticorin District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 1st respondent in R.No.4049/2018/S1/FSSA dated 27.06.2019 and 04.07.2019 respectively and quash the same and consequently direct the 1st respondent to consider the petitioner transfer application dated 04.06.2019 on humanitarian grounds, and to pass transfer order by following the transfer policy and counseling method while issuing transfer order and pass such further or other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of this case and thus render justice.

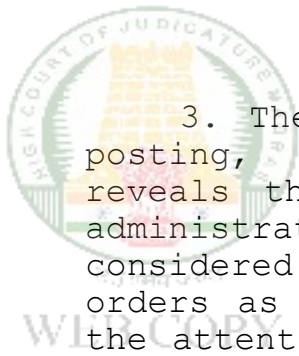
For Petitioner : Mr.B.Nagasubramanian

For Respondents : Mr.A.K.Manikkam
Special Government Pleader

ORDER

The writ petition has been filed challenging the transfer order dated 27.06.2019 and 04.07.2019 and for a direction to consider the transfer application submitted by the writ petitioner on 04.06.2019.

2. The petitioner was appointed as Leprosy Inspector, which was redesignated as Health Inspector. The petitioner was further posted as Food Inspector under the control of the first respondent.



3. The first respondent issued an administrative transfer and posting, transferring the Food Safety Officers. The order impugned reveals that general transfer and posting orders were issued on administrative reasons and also the request applications were also considered. The petitioner has challenged the transfer and posting orders as a whole and the learned Special Government Pleader drew the attention of this Court that the petitioner is not a party to the transfer order impugned in the writ petition and his application for transfer is no way connected with the administrative transfer orders passed by the competent authorities.

4. If the petitioner has already submitted an application for request transfer that is to be considered separately and merely for the consideration of his application, the entire administrative transfer order cannot be challenged by the writ petitioner. Thus, the very relief sought for is misconceived and the parties to the transfer orders have not been impleaded as parties in the writ petition and on that ground also, the writ petition is liable to be rejected.

5. Transfers are issued on administrative grounds for efficient and effective public administration. Efficient public administration is the constitutional mandate and under those circumstances, the act intended to provide an absolute power to the Government to transfer an employee from one revenue district to another revenue district on administrative grounds notwithstanding anything contained in the act or any special rules or adhoc rules.

6. Thus, this Court is of the considered opinion that day-to-day administration of the Government vests with the executives. The day-to-day administration are to be effectively monitored and regulated by the competent authorities. Courts are not expected to interfere with the day-to-day administration of the Government departments. No doubt, on exceptional circumstances, the Court can entertain writ petitions, where an order of transfer is under challenge on certain limited grounds. If any order of transfer has been passed without jurisdiction or allegations of mala fides are raised or in certain exceptional circumstances, where materials are available to establish that the transfer is punitive, then the Courts can interfere, in order to mitigate the exceptional circumstances advanced. However, the scope of interference is undoubtedly limited and in the event of frequent interference by the Constitutional Courts in the matter of administrative transfer, the executives may not be in a position to run the administration in a smooth manner.

7. The next question arises, whether transfer gives a right to a government employee. The answer would be that transfer would not provide any right to a Government employee. Transfer is an incidental to service, more so a condition of service. When an



offer of appointment is issued by the competent authorities, the acceptance of appointment is implied that the transfers are agreed and the employment is a contract between the employer and employee and the transfer being incidental, the scope for challenge is in narrow campus. Thus, when there is no right in the matter of transfer and transfers are not affecting the service conditions of an employee, then the entertainability of the writ petition is to be considered.

8. As stated above, entertainability rests on limited grounds viz., (i) without jurisdiction; (ii) mala fide; and (iii) punitive, if established with sufficient materials to the satisfaction of the Courts.

9. The power of judicial review of the High Court under Article 226 of the Constitution of India is to ensure the processes through which is decision is taken by the competent authority in consonance with the provisions of the statutes and rules, but not the decision itself.

10. There are many complaints against the public officials in common parlance. General public are giving complaints and some complaints are motivated and some complaints require enquiry. However, if the higher officials receive frequent complaints against an officer in a particular manner or regarding certain instances, then it is the subjective satisfaction of the competent authority concerned to take a decision and the Courts cannot play any role in such decision of the administrative authorities. In the process of administration, an executive takes a decision considering the nature of complaints and the seriousness involved and further enquiry to be conducted, if necessary. Such a process is an administrative process, which is the day-to-day administration and in the event of interference by the High Courts, it would be undoubtedly, a tedious affair for the executives to run the administration in a peaceful manner and to enforce discipline amongst the employees, which is of paramount importance.

11. This Court cannot brush aside the general allegations in the public domain against the public servants. There are large scale corruption in Government Departments. People are not only lamenting, even for their rightful claims, bribes are demanded. Under these circumstances, administrative transfers are warranted and therefore, the Courts are expected to exercise restraint in exercise of the power of judicial review under Article 226 of the Constitution of India and the discipline to be maintained in public service is also to be considered by the Courts, while interfering with such administrative transfers.

12. This being the factum, the petitioner has not established any ground for the purpose of interfering with the order of



WEB COPY

W.P.(MD)No.15980 of 2019

transfer.
costs.

Accordingly, the writ petition stands dismissed. No

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

RR

To

1.The Commissioner
Food Safety and Drug Administration
DMS Campus,Teynampet, Chennai 6

2.The Designated Officer,
Food Safety and Drug Administration
District Collector Office Campus,
Korampallam, Tuticorin,
Tuticorin District.

+1 CC to M/s.SPL.GP (SR-17514[F] dated 08/04/2022)

W.P. (MD) No.15980 of 2019

07.04.2022

RK(20/04/2022) 4P 4C