



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.16507 of 2020

W.M.P (MD).Nos.13800 & 13801 of 2020

- 1.I.Krishnavel
- 2.S.Subramanian
- 3.E.Mahalakshmi
- 4.S.Renganayagi
- 5.K.Osana Fernando
- 6.V.Pattamuthu
- 7.P.Balasubramanian

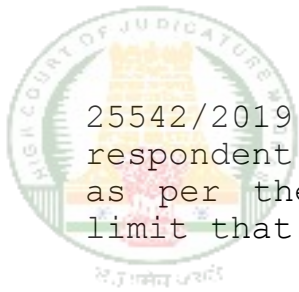
... Petitioner

Vs.

- 1.The Principal Secretary/
Commissioner of Revenue Administration,
Ezhilagam, Chepauk,
Chennai-600 005.
- 2.The District Collector,
Tirunelveli District,
Tirunelveli.
- 3.The District Collector,
Tenkasi District,
Tenkasi.
- 4.S.Muthulakshmi,
Special Tahsildar (Land Acquisition),
Vanchi Maniyachi-Nagercoil Double Track,
Railway Broad Gauge Project,
Tirunelveli Phase-2
Tirunelveli.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records on the file of the 2nd respondent in connection with the impugned promotion and posting of the 4th respondent as Special Tahsildar (Land Acquisition) Vanchi Maniyachi-Nagercoil Double Track Railway Broad Gauge, Tirunelveli Phase-2 vide his proceedings in Na.Ka.A6/04/2020 dated 22.10.2020 and quash the same as illegal, arbitrary and violation of instructions/guidelines issued by the 1st respondent vide his proceedings in Lr.No.Ser.3(4)/31350/2019 dated 25.10.2019 and his proceedings in Lr.No.Ser 3(4)/



25542/2019 dated 29.11.2019 and consequently direct the 2nd respondent to consider any one of the petitioners for the said post as per the instructions of the first respondent within the time limit that may be stipulated by this Court.

For Petitioners:

Mr.R.Karunanidhi

For Respondents:

Mr.N.Sathish Kumar

Additional Government Pleader
for RR1 to 3

Mr.T.Aswin Rajasimman
for Mr.T.Lajapathi Roy for R4

O R D E R

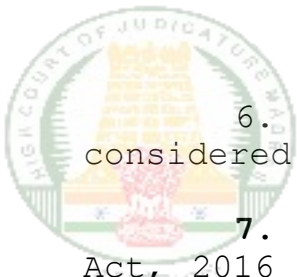
The order of transfer and posting of the fourth respondent as Special Tahsildar (Land Acquisition) is under challenge in the present writ petition.

2. The petitioners are working as Tahsildar and they were posted in Tenkasi on bifurcation. Bifurcation of District is a policy of the Government. While bifurcating the Districts, the employees are transferred to the newly constituted District to meet out the administrative exigencies. In the present case, the impugned order dated 22.10.2020 reveals that the fourth respondent has been transferred and such a transfer is under challenge in the present writ petition.

3. The learned counsel appearing for the petitioner states that the petitioners ought to have been accommodated in Tenkasi District, instead of the fourth respondent is accommodated and the impugned order is perverse and in violation of the instructions issued by the Government. Relying on the instructions, the petitioners state that they must be transferred to Tirunelveli.

4. Place or post can never be claimed as a matter of right or choice. On bifurcation, the petitioners were posted in Tenkasi District. Transfer is an incidental to service, more so, a condition of service. The order impugned is a transfer and posting issued in favour of the fourth respondent. Therefore, the petitioners cannot raise any cause by challenging the transfer order issued to the fourth respondent. If at all the petitioners want any such request transfer, they have to file appropriate applications before the Competent Authority. However, the Court cannot direct the Authorities to post the petitioners in a particular place or post.

5. Instructions cannot be a ground to grant relief in transfer cases. Instructions are issued by the Government for the Authorities to avoid the inconsistencies or to transfer the employees on administrative grounds. Such instructions would not confer any right on the candidates.



6. The principles governing the transfers are to be considered by this Court, at the first instance.

7. Tamil Nadu Government Servants (Conditions of Service) Act, 2016 (Act No.14 of 2016) governs the powers of authorities to transfer government employees.

8. Section 48 stipulates 'posting and transfer'. Sub-section (1) contemplates that 'a member of a service or class of service may be required to serve in any post both on the cadre of such service or class for which he is qualified'.

9. Sub-section (3) contemplates 'notwithstanding anything contained in this Act or any special rules or adhoc rules, the Government may transfer any Government servant from one revenue district to another revenue district within the State, on administrative grounds.'

10. The power of transfer conferred on the Government under Section 48 of the Act is absolute. Even sub-section (3) contemplates, on administrative grounds, the Government, notwithstanding the provisions of the Act or any special rules or adhoc rules, may issue orders of transfer on administrative grounds.

11. Let us consider the spirit of this provision. 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.

12. 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.



13. 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.

14. 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.

15. 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. Therefore, the processes adopted are that the Commissioner of Social Welfare sends proposal based on various reasons, including administrative reasons in certain cases and accordingly, transfer orders were issued transferring 13 officials by the Government in G.O.(pa)No.8 dated 19.01.2022. Thus, the said administrative reason need not be interfered with by the Courts in a writ proceedings.

16. 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.

17. This Court cannot brush aside the general allegations in the public domain against the public servants. There are large

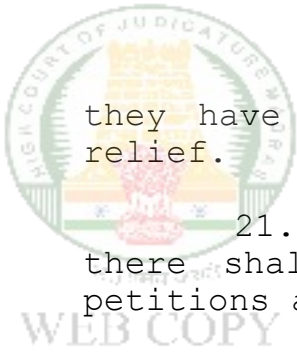


scale corruption in Government Departments. People are not only lamenting, even for their rightful claims, bribes are demanded. Under these circumstances, administrative transfers are warranted and therefore, the Courts are expected to exercise restraint in exercise of the power of judicial review under 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.

18. One or two decades back, the working atmosphere in Government Offices are entirely different which cannot be compared with the present day administration. Therefore, those judgments delivered some years back, may not have much relevance with reference to the current day affairs in the Government departments and in the perspection of the public at large.

19. Government servants play a significant role in running the administration of our great nation. They are important constituents of the administrative set up of our nation. They are the pillars of the Government Departments on whose shoulders, the responsibility to implement the Government policies lies. They provide public services to the citizen at the grass root level and in the same way, they forward the grievances of the public, their representations and demands to the higher for their effective resolution. The Government employees have different work culture and responsibility as compared to the counterparts in private sectors. They are smartly paid and they have some kind of perquisites given to them but at the same time, they have heavy responsibility to the Government in particular and public in general. These Government employees enjoy a special status. They are receiving a decent salary from the taxpayers money. In the event of encouraging the district level officers, to choose the place and post in a particular manner, this Court is of the considered opinion that the administrative discipline will certainly parallelize and under those circumstances, the administrative reasons place a dominant role. Courts in all circumstances cannot interfere with the administrative reasons. Administrative reasons cannot be defined in a narrow campus. There may be several instances of administrative reasons. The Government may have decided that a particular officer will be the best person to tackle certain issues in a particular place or post. As stated earlier, it is the subjective satisfaction of the competent authority and therefore, the power of judicial review and its scope are undoubtedly limited and under these circumstances, this Court is of the opinion that the petitioner has not established any exceptional or extraordinary circumstances for the purpose of interfering with the order of administrative transfer which is impugned in the present writ petition.

20. In view of the facts and circumstances, the petitioners cannot challenge the order of transfer of the fourth respondent and



they have not established any cause for the purpose of granting relief.

21. Accordingly, the Writ Petition stands dismissed. However, there shall be no order as to costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2022

Sub Assistant Registrar (CS)

To

1.The Principal Secretary/
Commissioner of Revenue Administration,
Ezhilagam, Chepauk,
Chennai-600 005.

2.The District Collector,
Tirunelveli District,
Tirunelveli.

3.The District Collector,
Tenkasi District,
Tenkasi.

+1 CC to M/s.R.KARUNANIDHI, Advocate (SR-14568[F] dated 25/03/2022)

+1 CC to M/s.SPL GP (SR-14886[F] dated 28/03/2022)

W.P. (MD) No.16507 of 2020
25.03.2022

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