



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2022

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.17157 of 2021

and

WMP (MD) Nos.14051 and 14052 of 2021

WEB COPY

Suresh

... Petitioner

-Vs-

1.The District Collector,
Thanjavur Distrit,
Thanjavur.

2.The District Revenue Officer,
Kumbakonam Circle,
Kumbakonam.

... 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 pertaining to impugned order passed by the 2nd respondent in Na.Ka.No.5595/2021/A1 dated 05.09.2021 and quash the same and consequently permit the petitioner to continue his service at Pavoondiragapuram Village, Kumbakonam, as s Village Administrative Officer.

For Petitioner : M/s.S.Prabha

For Respondents : Mr.AN.Satheesh Kumar

Additional Government Pleader

O R D E R

The order of transfer, dated 05.09.2021, transferring the writ petitioner from Pavoondiragapuram Village, Kumbakonam Taluk to Soshikottai Village Papanasam Taluk, within the District of Tanjore, is under challenge in the present writ petition.

2. The petitioner is working as Village Administrative Officer and the impugned order of transfer has been issued on the ground that a disciplinary proceedings are initiated against the writ petitioner. Transfer can be issued in lieu of suspension. In the event of any frequent complaints against the Village Administrative Officer in a particular village, then the competent authority may transfer such Village Administrative Officer to any other place on initiation of disciplinary proceedings or otherwise in lieu of suspension. In the present case, there are complaints against the writ petitioner and the disciplinary proceedings are initiated. Under those circumstances, the order of transfer has been issued.

3. Transfer is an incidental to service, more so, a condition of service. By transferring an employee from one place to another place or one post to another post, the service conditions are not violated. Certain inconvenience of a Government servant cannot be a ground to set aside the order of transfer. No doubt, certain transfers effected may cause certain personal inconvenience to the Government employees, however, the public interest will prevail over



and in the interest of public administration, the Government servants are expected to work wherever they are posted.

4. Public interest and the efficiencies of public administration is of paramount importance. Thus, the transfer can never be claimed as a right. An order of transfer cannot provide a cause for filing a writ petition. However, a cause may arise only if an order of transfer is passed without jurisdiction or on *malafide* grounds. Even in case of rising an allegation of *malafides*, the authority against whom such an allegation is raised must be impleaded as a party in the writ proceedings and the allegations must be sufficient enough to hold that there is a *malafide* intention, which is established. Therefore, mere allegation of *malafide* is not enough and the administrative action cannot be taken as *malafides*. The standard of proof required to establish the *malafides* under general principles of law is to be followed while arriving a conclusion that such an order of transfer is issued on *malafide* grounds.

5. High Court cannot interfere with the day-to-day administration of the Government Departments. The executive are the best persons to decide, which employee is to be posted in which place in the interest of administration and in the public interest. In the event of unnecessary interference by the High Court in transfers and postings, no doubt, the executives will not be in a position to run the public administration in an effective manner. That is the reason why, the Constitutional Courts across the country repeatedly emphasized that the transfers can be interfered only on limited grounds and administrative transfers would not provide any right on the employee to seek a particular post or place as a matter of choice.

6. This being the principles to be followed routine interference in transfer and posting of Government employee by the High Court is undoubtedly undesirable. Only on exceptional circumstances, as stated above, a Writ may be entertained, but not otherwise.

7. Accordingly, this Court has no hesitation in forming an opinion that the petitioner has not established any right for the purpose of interference and consequently, the writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)



To
1.The District Collector,
Thanjavur Distrit,
Thanjavur.

2.The District Revenue Officer,
Kumbakonam Circle,
Kumbakonam.

+1 CC to M/s.SPL GP (SR-14321[F] dated 24/03/2022)

W.P. (MD) No.17157 of 2021
23.03.2022

SRR(CO)
KB(01.04.2022) 3P 4C