



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 25.04.2022**

CORAM

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

**W.P. (MD) Nos. 18264 and 18265 of 2021 and 10615 and 10619 of 2020
and**

**W.M.P. (MD) Nos. 15096, 15097, 15101, 15102, 12478 and 12479 of 2021
and 9350 and 9355 of 2020**

N.Maria Ruby ... Petitioner in
W.P. (MD) No. 18264 of 2021
& W.P. (MD) No. 10619 of 2020

S.Seethalakshmi ... Petitioner in
W.P. (MD) No. 18265 of 2021 &
W.P. (MD) No. 10615 of 2020

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Rural Development and Panchayat Raj Department,
Fort St.George,
Chennai - 600 005.

2. The Director,
Rural Development and Panchayat Raj Department,
Saidapet,
Chennai - 600 015.

3. The District Collector,
Tirunelveli District,
Tirunelveli.

4. The District Collector,
Tenkasi District,
Tenkasi.

... Respondents
in all W.Ps'

PRAYER in W.P. (MD) No. 18264 of 2021 : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records in connection with the impugned order passed by the second respondent in Na.Ka.No.36023/2020/C3, dated 08.01.2021, quash the same as illegal and consequently directing the respondents 1 to 4 herein to re-transfer the petitioner from Vasudevanallur Panchayat Union, Tenkasi District to her parent District, viz., Tirunelveli District in any



one of the available 8 vacancies for the post of 'Deputy Block Development Officer' by way of inter District transfer within a stipulated time.

PRAYER in W.P. (MD) No. 18265 of 2021 : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records in connection with the impugned order passed by the second respondent in Na.Ka.No.36023/2020/C3, dated 08.01.2021, quash the same as illegal and consequently directing the respondents 1 to 4 herein to re-transfer the petitioner from Alankulam Panchayat Union, Tenkasi District to her parent District, viz., Tirunelveli District in any one of the available 8 vacancies for the post of 'Deputy Block Development Officer' by way of inter District transfer within a stipulated time.

PRAYER in W.P. (MD) No. 10615 of 2020 : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents 1 to 4 herein to re-transfer the petitioner from Alankulam Panchayat Union, Tenkasi District to Tirunelveli District in any one of the available 8 vacancies for the post of 'Deputy Block Development Officer' by way of inter District transfer in the light of the Government Letter No.Ser 3(4)/25542/2019, dated 29.11.2019 issued by the Principal Secretary / Commissioner of Revenue Administration, Chennai - 600 005.

PRAYER in W.P. (MD) No. 10619 of 2020 : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents 1 to 4 herein to re-transfer the petitioner from Vasudevanallur Panchayat Union, Tenkasi District to Tirunelveli District in any one of the available 8 vacancies for the post of 'Deputy Block Development Officer' by way of inter District transfer in the light of the Government Letter No.Ser 3(4)/25542/2019, dated 29.11.2019 issued by the Principal Secretary / Commissioner of Revenue Administration, Chennai - 600 005.

For Petitioners

in all W.Ps' : Mr.S.Bharathy Kannan

For Respondents : Mr.R.Baskar

in all W.Ps' Additional Advocate General
Assisted by Mr.D.Sadiq Raja
Additional Government Pleader

C O M M O N O R D E R

The Writs on hand have been instituted questioning the validity of the inter-departmental communication issued by the Commissioner Rural Development and Panchayat to the District Collector, Tirunelveli District in proceeding dated 08.01.2021.



2. The petitioners have challenged the inter-departmental proceedings mainly on the ground that they have not expressed their willingness to transfer to newly bifurcated District namely Tenkasi District and they were directed to join duty by way of an administrative order.

3. The learned counsel for the petitioners mainly contended that now vacancies arise in Tirunelveli District and the petitioners are to be accommodated in the said vacancies as they were transferred to Tenkasi District not at their choice, but, by way of an administrative order. It is contended that the juniors to the petitioners are getting promotion in Tirunelveli District by depriving the opportunities of the petitioners to serve at Tirunelveli District which is their choice. The inter-departmental communication, which is impugned, is an order of rejection rejecting the claim of the writ petitioners to transfer them to Tirunelveli District. Despite the fact that the vacancies exist in Tirunelveli District, the request of the petitioners for transfer has not been considered. Thus, the petitioners are constrained to move these Writ Petitions.

4. The learned Additional Advocate General appearing on behalf of the respondents objected the said contention by stating that on bifurcation of Tenkasi District, the transfer of employees was effected, considering the various aspects of the administration and on administrative exigency. No doubt, options were granted to the employees as far as possible and it may not be possible for the administration to fulfill the choices of all the employees. No employee can claim transfer as a matter of right. Therefore, their options were considered as far as possible and the administration accommodated those people. The petitioners were transferred due to administrative exigency as Deputy Block Development Officers and they have now joined and are working in Tenkasi District. Therefore, they belonged to Tenkasi District cadre and the District is the Union, as far as the Deputy Block Development Officers are concerned. Therefore, there is no provision for transfer the Deputy Block Development Officers from one District to another District, unless the decision is taken at the Government level.

5. The learned Additional Advocate General further contended that mere existence of vacancies would not confer any right on the petitioners for claiming transfer from one District to another District and the said reason has been furnished in the order impugned itself. Thus, the Writ Petitions are to be rejected.

6. Post or place can never be claimed as a matter of choice by the employees. The employees are liable to be transferred on administrative exigency. Bifurcation of the District is the policy

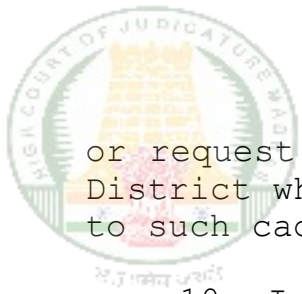


decision of the Government. As far as the service conditions of the employees are concerned, Section 48 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 contemplates 'posting and transfer'. Sub-section (1) to Section 48 of the Act enumerates that "a member of a service or class of service may be required to serve in any post both on the cadre of such service or class for which he is qualified". Therefore, the Authorities Competent are empowered to transfer any employee on administrative ground or exigency and the employee can never claim the post or place as a matter of choice. The request transfer options or mutual are entertained as far as possible and the Government Orders issued in this regard are instructions and cannot have the force of a statute. Such instructions by way of concession to the employees would not confer any right on the employees to seek transfer as a matter of choice. Such instructions are issued by the Government to maintain consistency and to avoid discrimination among the employees on the hands of the Competent Authority. Therefore, such instructions would not confer any right, as transfer basically is an incidental to service, more so, a condition of service. Mere transfer and posting would not infringe the service right of the employees and thus, such instructions could not have statutory enforceable. All such instructions are concessions extended to the employees only to avoid inconsistency on the hands of the Competent Authority.

7. This Court is of the considered opinion that the petitioners were already transferred to Tenkasi District in the cadre of Deputy Block Development Officers and admittedly, they have joined in the post and are working. Therefore, their services are unconnected with the promotional opportunities in Tirunelveli District and their promotional opportunities are to be provided in Tenkasi District as per the Rules-in-force. As far as their grievance to transfer from Tenkasi to Tirunelveli District is concerned, it is for the petitioners to approach the Government for appropriate remedy, if they are otherwise eligible in accordance with the rules. However, the High Court cannot interfere with such policy decision or day-to-day administration of the Government, more specifically, in the matter of transfer and posting. In the event of such interference, the same would cause inconvenience and hindrance to the smooth functioning of the public administration by the Competent Authorities, who will be the best person to decide the place in which an employee is to be posted.

8. The power of judicial review of the High Court under Article 226 of the Constitution of India is to ensure the process through which a decision is taken by the Competent Authority in consonance with the statute and Rules-in-force, but not the decision itself.

9. This being the scope of judicial review, the High Court cannot interfere with any such administrative transfer or exigency



or request of the employee to transfer from one District to another District which is otherwise impermissible under the Rules applicable to such cadre.

10. In view of the facts and circumstances, this Court do not find any infirmity or perversity in respect of the reasonings given in the order impugned which is otherwise candid.

11. Accordingly, these Writ Petitions are dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AD II)

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/ /2022

Sub Assistant Registrar(CS)

To

1. The Secretary to Government,
The State of Tamil Nadu,
Rural Development and Panchayat Raj Department,
Fort St.George,
Chennai - 600 005.

2. The Director,
Rural Development and Panchayat Raj Department,
Saidapet,
Chennai - 600 015.

3. The District Collector,
Tirunelveli District,
Tirunelveli.

4. The District Collector,
Tenkasi District,
Tenkasi.

+4. CC to Mr.BHARATHY KANNAN, Advocate SR.No.21101, 21102

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