



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.22160 of 2021

W.M.P (MD) .Nos.18724, 18726 and 18729 of 2021

D.Hariramu

... Petitioner

Vs.

1.The State of Tamil Nadu

Rep.by its Secretary to Government,
The Health and Family Welfare Department,
Secretariat,
Chennai.

2.The Director of Public Health and Preventive Medicine,
O/o. The Director of Public Health and Preventive Medicine,
Chennai-600 005.

3.The Deputy Director of Health Services,
O/o.The Deputy Director of Health Services,
Gandhi Road,
Thanjavur,
Thanjavur District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 2nd respondent vide his proceedings in R.No.71218/E2/S1/2021 dated 07.12.2021 and quash the same as illegal in so far as non providing of preference to the disabled persons are concerned and consequently to direct the respondents to provide preference in the matter of transfer counselling of Laboratory Technician Grade III for the disabled persons within the time that may be stipulated by this Court.

For Petitioner : Mr.A.Afritha Fathima
for M/s.Ajmal Associates

For Respondents : Mr.D.S.Nedunchezian
Government Advocate



O R D E R

The general transfer counselling intimation issued by the Director of Public Health and Preventive Medicine dated 07.12.2021 is under challenge in the present writ petition.

2. The petitioner is working as Lab Technician Grade-III. The grievance of the petitioner is that he is a differently abled person and therefore, he will be given a concession for transfer and posting. Currently, the petitioner is working at Rameshwaram and he is seeking transfer to Ramanathapuram. No doubt, an employee can make a request for transfer on various personal grounds and based on certain grievances. However, such grievances cannot be considered by the High Court in a writ proceedings. The power of judicial review under Article 226 cannot be extended so as to take an administrative decision in the matter of transfer and posting. Only if an order of transfer is tainted with malafide or issued by incompetent authority, then the High Court can entertain the writ petition but not otherwise. Therefore, certain personal grievances of the employees may be placed before the Authorities Competent for consideration. Mere instructions or circular issued by the Government regarding transfer and posting cannot confer any absolute right to the employees to claim a particular place or post as a matter of choice. Transfer is an incidental to service, more so, a condition of service. Transfer being a condition, may be issued by the Authorities on administrative grounds and exigencies. Hence, the High Court cannot interfere with the day-to-day administration of the Government Departments. Thus, if at all the petitioner is aggrieved or having any personal grievances, he may approach the Competent Authorities for re-dressal of his grievances. However, the High Court cannot issue any direction to transfer the petitioner to a particular place or post which is beyond the scope of power of judicial review of the High Court under Article 226 of the Constitution of India.

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

Sd/-

Assistant Registrar (CS-III)

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/ /2022

Sub Assistant Registrar(CS)



To

- 1.The State of Tamil Nadu
Rep.by its Secretary to Government,
The Health and Family Welfare Department,
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Chennai.
- 2.The Director of Public Health and Preventive Medicine,
O/o. The Director of Public Health and Preventive Medicine,
Chennai-600 005.
- 3.The Deputy Director of Health Services,
O/o.The Deputy Director of Health Services,
Gandhi Road,
Thanjavur,
Thanjavur District.

+2CC to M/s.AJMAL ASSOCIATES, Advocate (SR-14781[F]dated 28/03/2022)

+1 CC to M/s.SPL GP (SR-14829[F] dated 28/03/2022)

W.P. (MD) No.22160 of 2021
25.03.2022

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