



W.A(MD)Nos.1271 & 1193 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.11.2022

CORAM:

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

**W.A(MD)Nos.1271 and 1193 of 2022
and
CMP(MD)No.9325 of 2022**

R.Srimurugan

... Appellant in W.A.1271/22 &
Respondent in W.A.1193/22

VS.

1. The Inspector General of Police,
South Zone,
77, 4th Street, Reserve Line,
Race Course Colony,
Madurai-2.

2. The Commissioner of Police,
Madurai City,
Madurai.

3. The Deputy Commissioner of Police,
Head Quarters, Madurai City,
Alagar Kovil Road,
Madurai.

4. The Assistant Commissioner of Police,
Avaniyapuram Range,

1/8



W.A(MD)Nos.1271 & 1193 of 2022

WEB COPY
Madurai City,
Madurai.

5. The Inspector of Police,
V-2-Avaniyapuram (Law and Order) Police Station,
Madurai City,
Madurai.

... Respondent in W.A.1271/22 &
Appellants in W.A.1193/22

PRAYER : Writ Appeals filed under Clause 15 of Letters Patent,
against the order passed in W.P(MD)No.19529 of 2022 dated
27.09.2022.

For Appellant in W.A.1271/22 &
Respondent in W.A.1193/22 : Mr.Niranjan S.Kumar
For Respondent in W.A.1271/22 &
Appellants in W.A.1193/22 : Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.A.Kannan
Additional Government Pleader

COMMON JUDGMENT

(Judgment of the Court was made by R.MAHADEVAN, J.)

These Writ Appeals are directed against the order made in
W.P(MD)No.19529 of 2022 dated 27.09.2022.



W.A(MD)Nos.1271 & 1193 of 2022

WEB COPY

2. The aforesaid writ petition was filed challenging the transfer order dated 04.08.2022 transferring the appellant/writ petitioner Madurai to Thoothukudi. The learned Judge by order dated 27.09.2022 allowed the writ petition, issuing following directions:-

"16. The petitioner is in Uniform Service and the transfer is incidental to Government service. But the present transfer order has traces of punitiveness as stated supra. Moreover, the petitioner is already undergoing punishment and receiving meager salary. Even for the criminal act, the punishment is based on the reformatory theory. Therefore, by invoking the principles of Karma this Court is inclined to grant relief to the petitioner. In the principles of Karma the "Sanchita Karma" (entire karma) is apportioned as "Prarabdha Karma" (portion of the karma) and punishment is imposed to undergo only for the "Prarabdha Karma" (portion of the karma). In the present case, the petitioner is undergoing several punishments and transfers to a distance place would be adding to the misery by way of financial implication.

17. Therefore, this Court is of the considered opinion



W.A(MD)Nos.1271 & 1193 of 2022

WEB COPY

that if the petitioner is transferred as traffic police, that would meet the ends of justice. Hence this Court is directing the respondents to post the petitioner as Traffic Police within Madurai District.

18. Having granting the relief to the petitioner, it is advised that the petitioner shall continue his police duty alone without indulging in RTI petitions and other activities. With the above direction, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed."

3. While W.A(MD)No.1271/2022 is filed by the writ petitioner assailing the directions given by the Writ Court transferring him to the traffic wing, Madurai, the department has filed W.A(MD)No.1193 of 2022 questioning the ratification of illegal approach of the writ petitioner in producing the fabricated transfer order who evaded the service of original transfer order by going on medical leave.

4. The matter was heard in detail earlier. Today, when the writ appeals were taken up for further hearing, learned Additional



W.A(MD)Nos.1271 & 1193 of 2022

Advocate General appearing for the appellants in W.A(MD)No.1193 of 2022 fairly submitted that the Government have now decided to post the appellant in W.A(MD)No.1271 of 2022 in any one of the places namely, Virudhunagar District or Theni District or Dindigul District and with regard to the production of fabricated transfer order by the appellant which claims to be not an order issued by the competent authority, the learned Additional Advocate General sought liberty to conduct an enquiry against the writ petitioner in the manner known to law.

5. In reply, learned counsel for the appellant in W.A(MD)No. 1271 of 2022 submitted that the appellant may be posted in Dindigul District and with regard to the enquiry to be conducted relating to the allegation of production of fabricated transfer order, the petitioner who is present in Court has agreed and undertook to co-operate for the same.



W.A(MD)Nos.1271 & 1193 of 2022

WEB COPY

6. Recording the aforesaid submissions, the appellants in W.A(MD)No.1193 of 2022 are directed to issue necessary posting orders to the appellant in W.A(MD)No.1271 of 2022 posting him at Dindigul District within a period of two weeks from the date of receipt of a copy of this judgment. On receipt of such order, the appellant in W.A(MD)No.1271 of 2022 is directed to join duty forthwith. The period of absence of the appellant shall be adjusted towards his eligible leave as per the rules.

7. With the above direction, W.A(MD)No.1271 of 2022 is allowed and the order of the Writ Court made in W.P(MD)No.19529 of 2022 dated 27.09.2022 is set aside by setting aside the relief granted by following Karma principles. W.A(MD)No.1193 of 2022 is allowed with liberty to conduct an enquiry as prayed for. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D.,J.] & [J.S.N.P.,J.]
28.11.2022

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6/8



W.A(MD)Nos.1271 & 1193 of 2022

WEB COPY

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W.A(MD)Nos.1271 & 1193 of 2022

R.MAHADEVAN,J.
and
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COMMON JUDGMENT MADE IN
W.A(MD)Nos.1271 and 1193 of 2022
DATED : 28.11.2022