



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.23204 of 2019

and

W.M.P. (MD) No.19931 of 2019

WEB COPY

K.Dhanalakshmi

... Petitioner

vs.

1.The Director of Adi Dravidar Welfare
Adi Dravidar Welfare Directorate
Chepauk
Chennai-600 005

2.The Head Master
Government Adi Dravidar Welfare
Higher Secondary School
Agarapettai
Thanjavur District

3.The Head Master
Government Adi Dravidar Welfare
Higher Secondary School
Vettiyarvettu
Ariyalur District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorari calling for the records pertaining to the impugned order of transfer issued by the 1st respondent in his proceedings vide Na.Ka.No.A02/4564/2018, dated 23.02.2019 and the consequent relieving order issued by the 2nd respondent in his proceedings vide Na.Ka.No.102/2019 dated 03.6.2019 and quash the same as illegal.

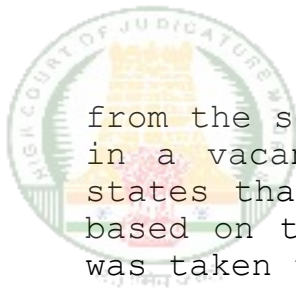
For Petitioner : Mr.B.Brijesh Kishore

For Respondents : Mr.M.Ramesh, Government Advocate

O R D E R

The order of administrative transfer dated 23.02.2019, issued by the first respondent and the consequential relieving order dated 03.06.2019, issued by the second respondent, are under challenge in this writ petition.

2. The petitioner is working as P.G.Assistant (Chemistry) in the second respondent - School. The impugned order of transfer has been issued by the first respondent transferring the petitioner



from the second respondent - School to the third respondent - School in a vacant place. The impugned order of transfer categorically states that there are certain complaints against the petitioner and based on the preliminary enquiry report, an administrative decision was taken to transfer the petitioner on administrative grounds.

WEB COPY

3. The learned counsel appearing for the petitioner made a submission that the petitioner made certain counter complaints and therefore, the Authorities have transferred the petitioner.

4. However, the fact remains that the impugned order of transfer was issued by the first respondent and thus, the allegations set out in this regard need not be considered by this Court. The Head of the Department, on receipt of the report with reference to certain complaints, issued an administrative transfer. Administrative transfers may be issued in lieu of suspension also. Administrative transfers are issued on various grounds in order to maintain efficient public administration. High Court cannot interfere with such administrative transfers in a routine manner. Though the learned counsel for the petitioner states that the impugned transfer order has been issued on *mala fide* grounds, no Authority has been impleaded as party respondent in this writ petition in his personal capacity nor such allegations are substantiated.

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

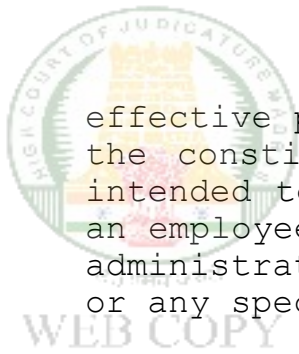
6. Tamil Nadu Government Servants (Conditions of Service) Act, 2016 (Act No.14 of 2016) governs the powers of authorities to transfer government employees.

7. 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'.

8. 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.'

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

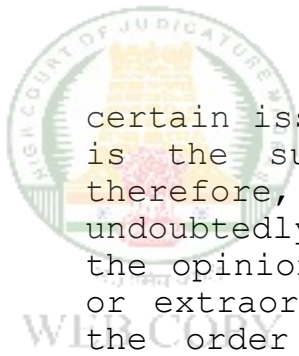
15. There are many complaints against the public officials in common parlance. General public are giving complaints and some



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.

16. 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.

17. 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.

18. In such view of the matter, this Court is of the opinion that there is no infirmity as such in the impugned orders passed by the respondents 1 and 2.

19. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

krk

To:

1.The Director of Adi Dravidar Welfare,
Adi Dravidar Welfare Directorate,
Chepauk, Chennai-600 005.

2.The Head Master,
Government Adi Dravidar Welfare,
Higher Secondary School,
Agarapettai, Thanjavur District.

3.The Head Master,
Government Adi Dravidar Welfare,
Higher Secondary School,
Vettiyarvettu, Ariyalur District.

+1 CC to M/s.SPL GP (SR-14285[F] dated 24/03/2022)

W.P. (MD) No.23204 of 2019

and

W.M.P. (MD) No.19931 of 2019

23.03.2022

RK(05/04/2022) 5P 5C

<https://hcservices.ecourts.gov.in/hcservices/>