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W.P. No. 5537 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2023

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 5537 of 2023

and

W.M.P. Nos. 4775 and 4776 of 2023

P.Rajeswari

... Petitioner

-VS-

1. The Commissioner of Rural Development and Panchayat Raj,
Saidapet,
Chennai – 600015.

2. The District Collector,
Coimbatore District,
Coimbatore.

3. The Block Development Officer,
Thondamuthur Panchayat Union,
Coimbatore.

Respondents

...

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the First Respondent in connection with the impugned order passed by him in Proceeding No. 15368/2022/EE. 1.2 dated 18.10.2022 and the consequential order of the Second and Third Respondents in Na. Ka. No. 891/2022/K2(1/2) dated 02.02.2023 and Na. Ka. No. 00333/2023/A1 dated 07.02.2023 respectively and quash the same and direct the Respondents to



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retain the Petitioner in the same district.

For Petitioner : Mr. P.V. Selvakumar for
Mr. K.Venkatramani,
Senior Counsel

For Respondent : Mr. B.Vijay,
Additional Government Pleader

ORDER

Heard Mr. K.V.Venkatramani, Learned Senior Counsel appearing for Mr.P.V.Selvakumar, Learned Counsel for the Petitioner and Mr.B.Vijay, Learned Additional Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, who is working in the post of Assistant Engineer in the Rural Development & Panchayat Raj Department has been transferred from Pollachi (South) Block, Coimbatore District to Tiruvannamalai District by Proceedings in Proc.No.15368/2022/EE 1.2 dated 18.10.2022 issued by the First Respondent and the consequential orders in Na. Ka. No. 891/2022/K2(2/2) dated 02.02.2023 passed by the Second Respondent and the Proceedings in Na. Ka. No. 0033/2023/A1 dated 07.02.2023 passed by the Third Respondent, which are assailed in this Writ Petition.



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3. The legal position relating to the scope of interference of the Court on transfers in public employment under Article 226 of the Constitution is well settled as reflected in the following extracts from the rulings of the Hon'ble Supreme Court of India:-

(i) ***Mrs. Shilpi Bose -vs- State of Bihar*** [(1992) SCC (L&S) 127]:

“ In our opinion, the Courts should not interfere with transfer orders which are made in public interest and for administrative reason unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A Government servant holding a transferable post has no vested right to remain posted at a place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order, instead the affected party should approach the higher authorities in the Department. If the Courts continue



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to interfere with day to day transfer orders passed by the Government and its subordinate authorities, there will be complete chaos in the Administration which would not be conducive to public interest.”

(ii) ***Union of India -vs- S.L.Abbas*** [(1994) SCC (L&S) 230]:

“ Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by mala fides or is made in violation of any statutory provisions the Court cannot interfere with it. While ordering the transfer, there is no doubt, the authority must keep in mind the guidelines issued by the Government on the subject. Similarly, if a person makes any representation with respect to his transfer, the appropriate authority must consider the same having regard to the exigencies of administration. The guidelines say that as far as possible, husband and wife must be posted at the same place. The said guideline however, does not confer upon the Government employee a legally enforceable right.”



(iii) ***State of Punjab -vs- Joginder Singh Dhatt*** [(1994) SCC (L&S) 230]:

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(iv) ***Abani Kanta Ray -vs- State of Orissa*** [(1996) SCC (L&S) 175]:

“ *It is settled law that a transfer which is an incident of service is not to be interfered with by the Courts unless it is shown to be clearly vitiated by mala fides or infraction of any professed norm or principle governing the transfer.* ”

Having due regard to the aforesaid dictum laid down in the binding decisions, in



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the absence of *malafides* or violations of statutory provisions, it is not possible

for this Court to entertain this Writ Petition challenging the order of transfer.

However, it is incumbent upon the concerned authorities to examine the representation that may be made by the Petitioner to re-consider the order of transfer with reference to applicable guidelines for transfer issued by the Government of Tamil Nadu and after affording an opportunity of personal hearing to him, pass reasoned order dealing with each of the contentions raised on merits and in accordance with law expeditiously and in any event, within a period of 15 days from the date of receipt of its copy.

In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

07.03.2023

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Index: Yes/No

Note: Issue order copy by 26.07.2023.

To

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Saidapet,
Chennai – 600015.



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P.D. AUDIKESAVALU, J.

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