



W.P. No. 6300 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. 6300 of 2023

and

W.M.P. Nos. 6320 and 6321 of 2023

K.Rajeswari

... Petitioner

-VS-

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

2. The District Collector,
Coimbatore District,
Coimbatore.

3. Block Development Officer (Block Panchayat),
Kinathukadavu Block,
Kinathukadavu,
Coimbatore.

...

Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the entire records in pursuant to the transfer order issued to the Petitioner by the First Respondent vide his proceedings in Proc. No. 15368/2022/EE 1.2 dated 18.10.2022 and the consequential relieving orders issued to the Petitioner by the Second and Third Respondents vide their proceedings in Na. Ka. No. 891/2022/K2 (2-2) dated 02.02.2023 and Na. Ka. No. 1293/2020/A1 dated 06.02.2023 respectively and



quash all of them.

For Petitioner : Mr. T.P.Prabakaran

For Respondents : Mr. B.Vijay,
Additional Government Pleader
(for R1 & R2)

Mr. K.H.Ravikumar,
Government Advocate (for R3)

ORDER

Heard Mr.T.P.Prabakaran, Learned Counsel for the Petitioner, Mr.B.Vijay, Learned Additional Government Pleader takes notice for the First and Second Respondents and Mr. K.H.Ravikumar, Learned Government Advocate takes notice for the Third Respondent 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 Kinathukadavu block in 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. 1293/2020/A1 dated 06.02.2023 passed by the Third Respondent, which are assailed in this Writ Petition.

3. The primordial contention of the Learned Counsel for the Petitioner is that though the Respondent claim that the impugned order of transfer has been effected for administrative reasons, it is not in accordance with the guidelines for transfer in G.O. Ms. No. 10, Personnel and Administrative Reforms (Per.S) Department dated 07.01.1994 issued by the Government of Tamil Nadu.

4. 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 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]:

“ This Court has time and again expressed its disapproval of the Courts below interfering with the order of transfer of a public servant from one place to another. It is entirely for the employer to decide when, where and what point of time a public servant is to be transferred from his present posting. Ordinarily the Courts have no jurisdiction to interfere with the order of transfer. The High Court grossly erred in quashing the order of transfer of the respondent from Hoshiarpur to Sangrur. The High Court was not justified in extending its jurisdiction under Article 226 of the



Constitution of India in a matter where, on the face of it, no injustice was caused.”

(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, the guidelines for transfer in the said Governmental Order relied by the Learned Counsel for the Petitioner does not have any force of law cannot be enforced.

5. Though it is not possible to entertain this Writ Petition challenging an order of transfer in view of the aforesaid legal position, it is incumbent upon the concerned authorities to examine the representation dated 08.02.2023 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 her, 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 a copy of this order.

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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P.D. AUDIKESAVALU, J.

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