



WEB COPY



W.P. No. 7671 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2023

CORAM

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

W.P. No. 7671 of 2023

and

W.M.P. No. 7844 of 2023

N.Natarajan
Petitioner

...

-VS-

1. The Joint Registrar of Co-operative Society/
Common Cadre Authority
Pollachi Circle
Coimbatore Region
Coimbatore.
 2. The Deputy Registrar of Co-operative Society
Pollachi Circle
Pollachi.
 3. The President
TP Spl. 39, Kattampattipudur
Primary Agriculture Co-operative Credit Society
Kattampattipudur
Kattampatti – 642 202.
- Respondents

...

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for records relating to the order bearing Na.Ka. No. 18/2023/Pa2(CommonCadre)(1) dated



W.P. No. 7671 of 2023

17.02.2023 on the file of the First Respondent and to quash the same and to consequently direct the Respondents to allow the Petitioner to continue to work in Third Respondent Society till his date of retirement from service i.e., upto 30.06.2023.

For Petitioner : Mr. R.Nandha Kumar

For Respondents : Mrs. R.Anitha (for R1 and R2)
Special Government Pleader
Mr. R.Veluchamy (for R3)

ORDER

Heard Mr. R.Nandha Kumar, Learned Counsel for the Petitioner and Mrs. R.Anitha, Learned Special Government Pleader, who takes notice for the First and Second Respondents, and Mr. R.Veluchamy, Learned Counsel for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, who is working as Secretary of the Co-operative Society of the Third Respondent at Kattampatti, has been transferred to TP Spl. 30 Zamin Uthukuli Primary Agricultural Co-operative Credit Society, by Proceedings in Na. Ka. No. 18/2023/U2(PoPaNi)(1) dated 17.02.2023 issued by the First Respondent, which is impeached in this Writ Petition.



W.P. No. 7671 of 2023

WEB COPY

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 vitiated by *mala fides* inasmuch as it is a consequence of a false complaint against the Petitioner that he was not sanctioning agricultural loans, apart from the fact that he would be attaining the age of superannuation on 30.06.2023 shortly.

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



W.P. No. 7671 of 2023

WEB COPY

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



WEB COPY

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



W.P. No. 7671 of 2023

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 circumstances that the Petitioner would be attaining the age of superannuation shortly on 30.06.2023 cannot be treated as an impediment for the concerned authority to transfer the Petitioner from one Co-operative Society to another. Insofar as the allegations of *mala fides* is concerned, it is not possible to accept the contention of the Petitioner that the impugned order of transfer was punitive in nature merely because he had refused to grant agricultural loans to certain members of the Co-operative Society of the Third Respondent.

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 28.02.2023 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 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



W.P. No. 7671 of 2023

receipt of a copy of this order.

WEB COPY

In the result, the Writ Petition is disposed on the aforesaid terms.

Consequently, the connected Miscellaneous Petition is closed. No costs.

14.03.2023

Maya

Index: Yes/No

Neutral Citation: Yes/No

Note: Issue order copy by 26.07.2023

To

1. The Joint Registrar of Co-operative Society/
Common Cadre Authority
Pollachi Circle
Coimbatore Region
Coimbatore.
2. The Deputy Registrar of Co-operative Society
Pollachi Circle
Pollachi.
3. The President
TP Spl. 39, Kattampattipudur
Primary Agriculture Co-operative Credit Society
Kattampattipudur
Kattampatti – 642 202.



WEB COPY



W.P. No. 7671 of 2023

P.D. AUDIKESAVALU, J.

Maya

W.P. No. 7671 of 2023

14.03.2023