IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16..08..2023

Coram

THE HON'BLE MR JUSTICE N.SATHISH KUMAR

Writ Petition No.20945 of 2023
and
W.M.P.No.20316 of 2023

M.Veerakumar

..... Petitioner

-Versus-

1.The Secretary to Government,
Department of Commercial Tax and Registration,
Secretariat, Fort St. George,
Chennai 600 009.

2.The Inspector General of Registration,
120, Santhome High Road,
Chennai 600 028.

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorari calling for the records relating to the impugned order of transfer dated 16.05.2023 bearing No.18453/K1/2023 issued by the 2nd respondent herein and quashing the same as being illegal, arbitrary and contrary to the provisions of law.

For Petitioner : Ms.Dipthi Munoth A.

For Respondent (s) : Mr.P.Baladhandayutham,
Special Government Pleader
for RR1 and 2

ORDER

This writ petition challenges the order of transfer dated 16.05.2023 passed by the 2nd respondent transferring the petitioner, who is working as an Assistant in the Registration Department, from South Chennai Registration District to Marthandam Registration District.

2. The petitioner is an Assistant in the Registration Department. He has been transferred from South Chennai Registration District to Marthandam Registration District. The transfer order is assailed mainly on two grounds that the 2nd respondent had no power to transfer the petitioner and (ii) transfer was was made with malafide intention and not on any administrative exigency.

3. The 2nd respondent filed counter affidavit denying the allegations made in the writ petition and inter alia contending that transfer was effected due to administrative reason based on the report of the Directorate of Vigilance and Anti-Corruption. As per G.O.No.507, dated 16.08.1990, the 2nd respondent is empowered to effect transfer of ministerial staff members from one registration district to another.

4. Heard both sides.

5. The learned counsel appearing for the petitioner would strenuously

contend that though it is alleged that during a surprise check certain irregularities and misconduct were noticed, no cash was recovered from the petitioner. The transfer was not made on any administrative ground and it was effected with malafide intention merely because the petitioner is the President of Tamil Nadu Registration Ministerial Staff Service Association (TNRDMSSA) and he had participated in the union activities. The 2nd respondent was not empowered to transfer a ministerial staff from one registration district to another.

6. The learned Special Government Pleader would, on instructions, submit that the petitioner was relieved from his previous station, but, without joining duty at the transferred place, went on medical leave. The transfer was due to administrative reason based on the report of the Directorate of Vigilance and Anti-Corruption.

7. Insofar as the jurisdiction of the 2nd respondent is concerned, the learned Special Government Pleader has brought to the notice of this court G.O.(Ms) No.507, Commercial Taxes and Hindu Religious Endowment Department, dated 16.08.1990 whereunder the 2nd respondent has been empowered to transfer the ministerial staff from one registration District to another

8. I have considered the rival submissions and also perused the records carefully.

9. It is seen from the impugned order of transfer that transfer was effected due to administrative reason. The report on surprise check proceedings was placed before this court for perusal. That report would indicate that during such surprise check conducted on 13.12.2021, there were certain irregularities and misconduct noticed and that the surprise check also led to recovery of unaccounted cash.

10. The Supreme Court has been consistently holding that unless the order of transfer is vitiated by mala fide or it is shown that it is punitive or is made in violation of statutory provisions, the court cannot interfere with it.

11. In the instant case, although malafide has been alleged, the pleadings are bereft of material facts in support of such allegations. Mere assertion or a vague or bald statement is not sufficient. The law imposes upon the person levelling allegation of malafide to discharge the burden of proving such malafide action by producing the requisite materials. [vide **State of Uttarpradesh v. Gobardhan Lal [(2004) 11 SCC 402**]. The petitioner has failed to discharge his burden to prove such allegations of malafide by producing requisite materials or to demonstrate the same either by admitted or

proved facts. On the other hand, it is seen from the records that the transfer was effected on administrative ground based on the report on the surprise check which was conducted on 13.12.2021 at the office of the petitioner where he was working at the relevant point of time. There were certain irregularities and misconduct noticed during such surprise check. Even though no amount was recovered from the petitioner, the fact remains that unaccounted cash was recovered from the office of the registration department.

12. Even assuming that order of transfer was effected following the surprise check, in the considered opinion of this court, such transfer would be required to avoid the further problem in the administration and also to prevent any further misuse of power. I do not find any merit in the writ petition and the same deserves only to be dismissed.

In the result, the writ petition is dismissed. No costs. Consequently, connected WMP is closed.

16..08..2023

Index : yes / no
Neutral Citation : yes.
Speaking / Non Speaking Order
kmk

To

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N.SATHISH KUMAR.J.,

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