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W.P.No.25003 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2023

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.25003 of 2021
and W.M.P.No.26329 of 2021

P.Kamarasu

...

Petitioner

/vs/

1. The Joint Director,
(Higher Secondary)
D.P.I.Campus, College Road,
Nungambakkam,
Chennai – 600 006.

2. Ramasamy
The Joint Director,
(Higher Secondary)
D.P.I.Campus, College Road,
Nungambakkam,
Chennai – 600 006.

3. C.Amudhavalli
The Joint Director (Non-Formal Adult Education)
National Service Scheme,
D.P.I.Campus, College Road,
Nungambakkam,
Chennai – 600 006.

....

Respondents



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Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorari to call for the records pertaining to the impugned order having reference Na.Ka.No.430/W1/E3/2021 dated 02.11.2021 on the file of the first respondent and quash the same.

For Petitioner ... Mr.E.P.Senniyangiri

For Respondents ... Mr.G.Anandakrishnan for R1

Mr.Anand Gopalan
for M/s.T.S.Gopalan & Co. for R2 & R3

ORDER

This Writ Petition has been filed to call for the records pertaining to the impugned order having reference Na.Ka.No.430/W1/E3/2021 dated 02.11.2021 on the file of the first respondent and quash the same.

2. The petitioner, who was working as a Personal Assistant to the Chief Educational Officer on and from 13.06.2019 got transferred on 02.11.2021 as High School Headmaster. The petitioner was relieved on the date when the transfer order was issued. The grievance of the petitioner is that in the transfer proceedings dated 02.11.2021, wherein it is alleged that



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the petitioner was involved in certain illegal activities that were directly against the interests of the institution.

3. Mr.E.P.Senniyangiri, learned counsel for the petitioner submitted that in the transfer order has to be considered as a punishment transfer and not a routine transfer and hence, the individual ought to have been given with an opportunity to submit his explanation.

4. In the case in hand, the transfer order mentioned about the reason for which the petitioner has given with a transfer. It is stated that the petitioner is involved in sending false complaint by inducting third parties against the officials, mishandling the bundles. Even though the petitioner was given with a notice in respect of an enquiry on a complaint and in pursuant to that the petitioner has also submitted his explanation, no enquiry report is submitted. When all of a sudden on 02.11.2021 the petitioner has been transferred on the basis of the allegations made against him. As stated already in the transfer order also the reason for the transfer has stated as the allegations of certain misconduct against the petitioner.



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5. In certain administrative contingencies, even before such enquiry is initiated or enquiry report is obtained, transfer orders might be issued in the interest of the proper enquiry. In those transfer orders, it will be simply mentioned as 'on administrative reasons'. But in the impugned order, certain allegations have been made and it was served upon the petitioner through proper channel. Without availing any opportunity to disprove the allegations no such stigmatic allegations can be incorporated in an order.

6. However, the petitioner has objected the order and placed in the new place and in the new post. He did not have any grievance about the transfer but his grievance is only the offensive words incorporated in the transfer order.

7. In view of the above decision, I feel it is appropriate to recall the impugned order dated 02.11.2021 without having any impact on the transfer and to reissue the same by modifying the order by expunging those offending words but with effect from the date of the transfer. This exercise shall be carried out within a period of four weeks from the date of receipt of



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copy of this order.

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8. With the above direction, the Writ Petition is disposed. No costs.

Consequently, connected miscellaneous petition is closed.

14.12.2023

Index: Yes / No

Speaking order / Non-speaking order

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To:

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R.N.MANJULA ,J.

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