



W.P.No.33090 of 2022 and W.M.P.Nos.32490 & 32491 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10.07.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.33090 of 2022
and W.M.P.Nos.32490 & 32491 of 2022

Mr.S. Sudhakar

...

Petitioner

versus

1. The Transport Commissioner,
Ezhilagam, Walaja Road, Chepauk,
Chennai-600005.

2. The Regional Transport Officer,
Zuzuvadi RTO, Incoming Check Post
Hosur Check Post, Hosur-635126 ...

Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 1st Respondent in transfer Proc.No.1357/RA1/2021 (E.O.No.661/2022) dated 30.11.2022 and quash the same as illegal, arbitrary and violative of principles of natural justice and to direct the 1st Respondent to re-transfer/retain the petitioner to the same place.

For Petitioner : Mr. P. Prakash Paul

For Respondents : Mr. Alagu Gowtham
Government Advocate



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ORDER

This Writ Petition has been filed to quash the transfer proceedings of the 1st Respondent in Transfer Proceedings No.1357/RA1/2021 (E.O.No.661/2022) dated 30.11.2022 and to direct the 1st Respondent to re-transfer/retain the petitioner to the same place.

2. The Writ Petitioner was worked as Assistant in the 2nd Respondent office and according to the Writ Petitioner as per the impugned order dated 01.06.2022 he was transferred to U.O.Illuppur vide proceedings No.1357/RA2/2021. He is serving in the Government sector more than 20 years with unblemished service records and his wife is working as Head Clerk in District cum Judicial Magistrate Court, Kalasapakkam at Thiruvannamalai. Therefore he challenged the transfer.

3. In the counter filed by the Respondents' counsel, in paragraph 5, it is stated as follows:

5. With regard to the averments made in



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paragraph 3 of the affidavit, the petitioner has narrated about his transfer from Hosur Incoming Checkpost to Unit Office, Illuppur vide Transport Commissioner's Proceedings No.1357/RA2/2021 (E.O.661/2022) Dated 30.11.2022 within 6 months of his earlier transfer.

In this regard, it is submitted that, the Directorate of Vigilance and Anti Corruption, Chennai has submitted a report wherein it has been stated that, a surprise check was conducted on 14.10.2022 at Hosur (Incoming) Checkpost, Zuzuvadi. During the surprise check an unaccounted money of Rs.2,30,250/- and eight documents were seized and a case in Krishnagiri V & AC Cr.No.04/AC/2022/KG u/s 7 of PC Act 1988 as amended by PC (Amendment) Act 2018 was registered on 15.10.2022 against (i) AO-1 Tr.N.Sumesh, (MVI(NT) (ii) AO-2 Tr.S.Sudhakar Assistant and (iii) AO-3 Tr.B.R.Sampath, Office Assistant . Hence, they informed that if the AOS 1 to 3 were allowed to continue in the same place, there is a chance that they might tamper the documents and influence the witnesses. Hence, AO-1 Thiru N.Sumesh, MVI(NT), AO-3



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Thiru B.R. Sampath, Office Assistant has been transferred from Hosur (Incoming) Checkpost, Zuzuvadi to far away places. Likewise, AO-2 Tr.S.Sudahakar, Assistant is also transferred from Hosur (incoming) Checkpost, Zuzuvadi to Unit Office, Illuppur vide Transport Commissioner's proceedings No.1357/RA2/2021 (E.O.661/2022) Dated 30.11.2022.

It is further contended that though the transfer is only for administrative reasons, the fact remains that only to avoid tampering of witnesses he has been transferred.

4. Whereas Learned counsel for the petitioner vehemently contended that the impugned order of transfer was passed not on the ground of Administrative reasons as stated in the impugned order of transfer but on the ground of certain adverse false allegations levelled against the petitioner and as such the impugned order is unsustainable in law. He filed order passed in the writ petition No.9599 of 2099 dated 10.06.2009 [R. Moahanasundaram vs. The Prinipal Chief Conservator of forests].



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5. The impugned order passed by the 1st Respondent indicating that the transfer order is passed due to administrative reasons. However, in the counter it is stated that some proceedings have been initiated and only to avoid tampering of documents and influencing of witnesses, at the request of the investigating agency he has been transferred. In the Writ Petition No.9599 of 2009 (referred above) this court has held that if the transfer is made as a punitive nature the same cannot be sustainable as per law. But in the present case the fact remains that the impugned order is passed only on the administrative reasons. Therefore, the reasons stated in the counter affidavit cannot be construed to mean that the transfer is made as a punishment. This Court is of the view when a person facing serious charges and his continuance of the particular place may lead to tampering witnesses, may be transferred to other place. Such a situation cannot be said as punitive in nature. The transfer is incident of service and administrative exigency. When the transfer is made to prevent tampering of witnesses the same cannot be considered as punitive in nature.



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6. In such a view of the matter, the writ petition is dismissed. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

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copy to:

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N.SATHISH KUMAR, J.,

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