



W.P.(MD).No.15889 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.07.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.15889 of 2023

and

W.M.P(MD)No.13302 of 2023

Rajamanickam

... Petitioner

Vs.

1.The Administrative Director,
Municipalities,
11th Floor, Santhom Highways,
M.R.C.nagar, Rajaanamalaipuram,
Chennai-600 028.

2.The Commissioner,
Municipalities,
South Zone,
294, Melakal Main Road,
Kochadai, Madurai-625 016.

3.The District Collector,
Dindigul District,
Dindigul.

4.The Municipality Commissioner,
Palani Municipality,
Palani, Dindigul District.

5.The Municipality Commissioner,
Udumalaipettai Municipality,
Tiruppur District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for records pertaining to the impugned order passed by the 1st respondent vide proceedings in Na.Ka.No.11790/2022/J2 dated 04.11.2022 and quash the same as illegal and consequently direct the 1st respondent to restore the petitioner original working place on the basis of the petitioner's representation, dated 28.04.2023.

For Petitioner : Mr.T.Indrachithu
For R1 – R3 : Mr.N.Muthuvijayan
Additional Government Pleader
For R4 : Mr.K.Hemakarthiskeyan
Standing Counsel

ORDER

The present writ petition has been filed to call for records pertaining to the impugned order passed by the 1st respondent vide proceedings in Na.Ka.No. 11790/2022/J2 dated 04.11.2022 and quash the same as illegal and consequently direct the 1st respondent to restore the petitioner original working place on the basis of the petitioner's representation, dated 28.04.2023.

2. The petitioner was appointed as a Scavenger in the 4th respondent municipality on 30.09.2008 on time scale of pay by the 3rd respondent. On



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07.05.2022, the petitioner's co-worker, namely Elammal working in the 4th respondent municipality levelled sexual harassment charge against her Supervisor, namely Subramaniam and lodged complaint in the Palani Town Police Station. Based on the said complaint, the case was registered against the Supervisor Subramaniam at Palani Town Police Station. The said Supervisor was transferred from Palani municipality to some other municipality. In connection to the said complaint, another case in Crime No.69 of 2022, dated 20.04.2022 was also registered as against another Supervisor, namely Marimuthu at Palani Adivaram Police Station. The 4th respondent municipality suspected that the petitioner was behind motivating the female co-workers and sensitizing them as to lodge a complaint of sexual harassment against the Supervisor and targeted the petitioner and hence, relieved the petitioner from the 4th respondent municipality and thereafter, the 4th respondent municipality directed the petitioner to approach the 1st respondent for further orders. The said order was a cryptic and non-speaking order. In furtherance to the same, the impugned transfer order, dated 04.11.2022 was passed by the 1st respondent transferring the petitioner from Palani municipality to Udumalaipettai municipality. Challenging the same, this writ petition came to be filed.



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3. The petitioner has also made a representation, dated 28.04.2023 to the respondents seeking to restore the petitioner to his original working place. However, the same was not considered. In furtherance to the said transfer order, the 4th respondent municipality has also issued a charge memo, dated 05.12.2022 initiating disciplinary action as against the petitioner. In the meanwhile, the petitioner joined Udamulaipettai municipality on 17.11.2022. The petitioner also gave an apology letter to the 1st respondent wherein he has specifically given an undertaking that he will not leak out any of the information within the 4th respondent municipality to any other strangers, especially Viduthalai Chiruthaigal Party. On the basis of his apology letter, the impugned transfer came to be passed. A perusal of the said apology letter, the relieving order, dated 07.10.2022, the impugned order, dated 04.11.2022 and the charge memo, dated 05.12.2022 would clearly reveal that the petitioner has been victimized by the 4th respondent municipality and has been made a scapegoat for his support to his co-workers to lodge criminal complaint against the Supervisor who indulged in sexual harassment. Moreover, the order of transfer and also the charge memo has been simultaneously issued and such an exercise itself would prove that the transfer order is vindictive and punitive in nature.



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4. In view of the same, the transfer order passed by the 1st respondent on 04.11.2022 is quashed and this Court directs the 1st respondent to restore the petitioner to his original working place within a period of four (4) weeks from the date of receipt of a copy of this order. The respondents are free to proceed with the charge memo in accordance with law.

5. With the above said observations, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

31.07.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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To

1.The Administrative Director,
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2.The Commissioner,
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294, Melakal Main Road,



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Kochadai, Madurai-625 016.

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3.The District Collector,
Dindigul District,
Dindigul.

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