



W.P.(MD)No.26438 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MRS.JUSTICE R. KALAIMATHI

W.P.(MD)No.26438 of 2023

B.Sivasankaran

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Additional Secretary,
Home Department, Fort St.George,
Chennai-600 009.

2.The Director of Prosecution,
Tamil Nadu Urban Habitat Developmental Board,
Annex Building 1st Floor,
No.5, Kamarajar Salai, Chennai-5.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to appoint the petitioner to the post of Assistant Director of Prosecution, Pudukkottai as per G.O.Ms.No.603, dated 10.07.2003, based on the petitioner's representation dated 14.10.2023 within the time frame stipulated by this Court.



W.P.(MD)No.26438 of 2023

For Petitioner : Mr.G.Mathavan
For Respondents : Mr.S.P.Maharajan,
Special Government Pleader

ORDER

(Order of the Court was made by ***S.M.SUBRAMANIAM, J.***)

The lis on hand has been instituted to direct the respondents to appoint the petitioner to the post of Assistant Director of Prosecution, Pudukkottai as per G.O.Ms.No.603, dated 10.07.2003, based on the petitioner's representation dated 14.10.2023.

2.The petitioner joined duty as Assistant Public Prosecutor Grade-II on 23.01.2013 and on promotion presently, working as Assistant Public Prosecutor Grade-I at Theni. He has submitted a representation to transfer him to the post of Assistant Director of Prosecution, Pudukkottai based on the Government Order issued in G.O.Ms.No.603, dated 10.07.2003.

3.The governing legal principles in the matter of transfer are that transfer is an incidental to service, more so, a condition of service. The High Court cannot entertain a Writ Petition either to direct the authorities to consider the



W.P.(MD)No.26438 of 2023

representation to transfer a public servant or to transfer an employee and if such representations are considered by the High Court, the same would do no service to the cause of justice. Contrarily, the litigant will be back again. The Court cannot run public administration. It is for the authorities to transfer the employee for efficient public administration and to fulfil the needs of the administration for providing better services to the public at large. Thus, the Writ proceedings against an order of transfer itself is not entertainable, unless such transfer has been issued by the authorities having no jurisdiction or tainted with the allegations of *mala fide*.

4. In the present case, the petitioner has relied on the Government Order. All such Government Orders are the guidelines issued for the purpose of considering the applications and the High Court cannot direct the authorities to consider such representations, since such orders would affect the administration one way or other. It is for the competent authorities to take a decision to post the employees for efficient administration, which is mandated under the Indian Constitution.



W.P.(MD)No.26438 of 2023

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5.Thus, the prayer as such sought for in the present Writ Petition deserves no merit consideration. Accordingly, this Writ Petition stands dismissed.

No costs.

(S.M.S., J.) & (R.K.M., J.)
03.11.2023

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

Yuva

To

- 1.The Additional Secretary,
State of Tamil Nadu,
Home Department, Fort St.George,
Chennai-600 009.
- 2.The Director of Prosecution,
Tamil Nadu Urban Habitat Developmental Board,
Annex Building 1st Floor,
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W.P.(MD)No.26438 of 2023

S.M.SUBRAMANIAM, J.

AND

R. KALAIMATHI, J.

Yuva

W.P.(MD)No.26438 of 2023

03.11.2023