



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.3626 of 2024
and W.M.P.No.3917 of 2024

R.Selvakumar

... Petitioner

Vs.

1.The Managing Director,
Municipal Administration,
No.78, Urban Administrative Building,
Santhome High Road, Chennai – 600 028.

2.The Commissioner,
Municipal Administration,
Gobichettipalayam Municipality, Gobichettipalayam.

3.The Commissioner,
Municipal Administration, Chidambaram Municipality,
Chidambaram

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the impugned proceedings of the 1st respondent in Na.Ka.No.2842/2024/H3 dated 06.02.2024 and the consequential proceedings of the 2nd respondent in Na.Ka.No.254/2024/C1 dated 09.02.2024 and quash the same.



For Petitioner : Dr.R.Gouri

For Respondents : Mrs.V.Yamunadevi
Special Government Pleader for R1 to R3

ORDER

This writ petition has been filed challenging the impugned proceedings of the 1st respondent dated 06.02.2024 and the consequential proceedings of the 2nd respondent dated 09.02.2024, transferring the petitioner from Gobichettipalayam Municipality to Chidambaram Municipality.

2. When the matter came up for hearing on 07.08.2024, this Court passed the following order:

When the matter was taken up for hearing today, the learned counsel for the petitioner submitted that two months salary has not been paid to the petitioner till date. The learned Special Government Pleader appearing on behalf of the respondents seeks for some time to take instructions.

2. It is made clear that in view of the interim order granted by this Court, whatever salary has to be paid to the petitioner shall be paid within a period of 10 days, if not already paid, and only after such payment, this Court will take up the main writ petition for



hearing on 27.08.2024. In the meantime, the interim order already granted by this Court shall stand extended. If any petition has been filed to vacate the interim order, the same shall be numbered before the next date of hearing. A copy of the counter shall be served on the learned counsel for the petitioner.

3. When the matter was thereafter taken up for hearing on 29.08.2024, the following order was passed:

Today, when the matter was taken up for hearing, it was brought to the notice of this Court by the learned counsel for the petitioner that the earlier order passed on 07.08.2024 has not been complied with and the petitioner has not been paid salary till date.

2. The learned Special Government Pleader appearing on behalf of the respondents submitted that before the next hearing, the order passed on 07.08.2024 will be complied with.

Post this case on 05.09.2024. In the meanwhile, the order passed on 07.08.2024 shall be complied with. It is made clear that if the salary due and payable to the petitioner is not paid before the next date of hearing, this Court will insist for the personal appearance of the respondents.



4. When the case was taken up for hearing today, it was brought to the notice of this Court that the salary payable to the petitioner has been settled. The relevant materials were also placed before this Court.

5. Heard Dr.R.Gouri, learned counsel appearing on behalf of the petitioner and Mrs.V.Yamunadevi, learned Special Government Pleader appearing on behalf of the respondents.

6. The short issue that arises for consideration is as to whether the transfer order passed by the 1st respondent and the consequential order passed by the 2nd respondent are liable to be interfered by this Court.

7. In the instant case, the petitioner is working as a Sanitary Supervisor in the 2nd respondent Municipality. It is seen from records that the petitioner is suffering from 60% disability. That apart, he also has a mentally retarded daughter. The petitioner is taking care of this mentally retarded daughter apart from being disabled. In view of the same, the petitioner by relying upon certain Government Orders has questioned the transfer order passed by the respondents.



8.G.O.Ms.No.92, dated 22.07.2009 has been issued by safeguarding the interest of the physically challenged persons. It is mentioned that the physically challenged persons at the best can be transferred only to some nearby places. This concession must be considered subject to the administrative constraints. The next Government Order that is relied upon is G.O.Ms.No.107, dated 03.09.2020. By virtue of this Government Order it is stated that the Government employee who is a care giver of a dependent with specific disability must be exempted from routine transfer subject to administrative constraints.

9.In the instant case, one of the daughter of the petitioner is mentally challenged and the petitioner is the care giver for this daughter.

10.In view of the above, certain concessions that have been given in the above two Government Orders should have been considered before the impugned order of transfer was passed, transferring the petitioner from Gobichettipalayam to Chidambaram. Since the same has not been done, this Court is inclined to interfere with the proceedings of the 1st respondent dated 10.02.2024 and the proceedings of the 2nd respondent dated 09.02.2024 and accordingly, the same is hereby quashed.



11. The petitioner is continuing as a Sanitary Supervisor at Gobi Municipality for the present by virtue of the interim orders passed by this Court. The salaries that are due and payable has also been paid pursuant to the orders passed by this Court. Therefore, if in case of any administrative exigency, the transfer of the petitioner can be considered to the nearby places and in accordance with the Government Orders which have been referred *supra*.

12. In the result, this writ petition stands allowed in the above terms. No Costs. Consequently, connected miscellaneous petition is closed.

05.09.2024

Internet : Yes
Index : Yes
Speaking Order / Non Speaking Order
ssr



To

WEB COPY

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WEB COPY



N. ANAND VENKATESH, J.

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