



W.P.No.10218 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2024

CORAM

THE HON'BLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P.No.10218 of 2024

and

W.M.P.Nos.11272 & 11274 of 2024

P.Edumban

... Petitioner

Vs.

1. The Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat, Fort St.George,
Chennai – 600 009.
2. The Director/Commissioner,
Rural Development and Panchayat Raj Department,
Panagal Maaligai,
Saidapet,
Chennai – 600 015.
3. The District Collector,
Dharmapuri District.
4. The Block Development Officer (VP),
Dharmapuri Village Panchayat,
Dharmapuri District.
5. The President,
Semmandakuppam Village Panchayat,
Dharmapuri District.



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6. The President,
Kuppur Village Panchayat,
Dharmapuri District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari to call for the records of the fourth respondent in Na.Ka.No.4149/2023/E2 dated 13.03.2024 and quash the same.

For Petitioner : M/s.A.Pramila

For Respondents

For R1 to R3 : Mr.P.Ganesan

Government Advocate

For R4 to R6 : Mr.T.Chandrasekar

Special Government Pleader

ORDER

The petitioner has challenged the Impugned Order dated 13.03.2024, by which the petitioner was transferred as a Panchayat Secretary from Semmandakuppam Village Panchayat to Kuppur Village Panchayat.

2. The learned counsel appearing on behalf of the petitioner would submit that the Impugned Order dated 13.03.2024 transferring the petitioner from Semmandakuppam Village Panchayat to Kuppur Village Panchayat was pursuant to a letter passed by the fifth respondent/President dated 07.03.2024.



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3. Taking this Court through a letter dated 07.03.2024, the learned counsel for the petitioner would submit that the said letter was submitted by the fifth respondent/President with a malafide motive. The petitioner has been discharging his duties in accordance with law. Merely because the petitioner did not listen to the fifth respondent/President in all his endeavors which are not as per the rules, the said letter was submitted by the fifth respondent/President against the petitioner.

4. The learned counsel for the petitioner would submit that without conducting a preliminary enquiry and without issuing a show cause notice, the respondents had directly issued the Impugned Order and further the Impugned Order also does not have any details or reasons for transferring the petitioner.

5. In support of her contention, learned counsel for the petitioner has relied upon Rule 11 of the the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013, which reads as under:-



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“11. Transfer:- (1) *Transfer of a person holding the post shall be made only on administrative grounds supported by valid reasons and after proper enquiry by the authorities concerned.*

(2) *Transfer and postings within the Block shall be made by the Block Development Officer (Village Panchayats) of the Panchayat Union concerned. Transfer and postings to other Blocks within the District shall be made by the Personal Assistant (Development) to the Collector. All transfers and postings within the Block and the District shall be done in consultation with the Executive Authority of the Village Panchayat concerned. The Commissioner/Director of Rural Development and Panchayat Raj is the competent authority to make transfer from one District to another District based on the specific report from the Collector.”*

6. Mr.P.Ganesan, learned Government Advocate and Mr.T.Chandrasekar, learned Special Government Pleader appearing on behalf of the respondents would submit that when transfer is made on a malafide intention and the vacancy in which the petitioner was working is still in existence, this Court should interfere in the order of transfer.

7. I have considered the submissions of the learned counsel appearing for the petitioner and the learned Government Advocate and the learned



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Special Government Pleader appearing for the respondents. I have perused the materials available on record. I have also perused Rule 11 of the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013, which has been extracted above.

8. On perusal of the Impugned Order and the letter of the fifth respondent/President, it is noticed that the order of transfer of the petitioner is an administrative transfer. Therefore, when the respondents are making an order of administrative transfer, Court will not interfere in the matter. Even to make allegation of malafide, the person on whom such allegations are being made has to be impleaded in the individual capacity and specific allegations has to be made.

9. In any event, the Impugned Order of transfer is not punitive in nature. The petitioner may be well advised to join the transferred post. The Court will not interfere in such administrative order of transfer which are in realm of the employer.



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10. Further, Rule 11 only contemplates that when a Panchayat Secretary is proposed to be transferred, such transfer shall be made only on administrative grounds for valid reasons and that too after proper enquiry. It does not mean that an opportunity should be given to the petitioner.

11. Transfer is an incidence of service and cannot be said to adversely affect the individual and as such the petitioner is not entitled for any opportunity before the order of transfer is made.

12. In that view of the matter, writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed. Needless to state that the petitioner will be permitted to join the duty at the transferred place and the petitioner shall report for duty within a period of one week from today, i.e., on 12.04.2024.

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Index : Yes/No
Speaking/Non-speaking Order



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Neutral Citation :Yes/No
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D.BHARATHA CHAKARAVARTHY, J.

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