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W.P. No. 13367 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2024

CORAM

THE HON'BLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P. No. 13367 of 2021

and

W.M.P. Nos. 14202, 14203 and 17242 of 2021

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... Petitioner

-VS-

1. The Deputy Director
Directorate of Fire and Rescue Services
Egmore, Chennai - 600008.
2. The Joint Director
Directorate of Fire and Rescue Services
Western Region
Kovai South Fire and Rescue
Services Station Campus
Bharath Bank Road
Coimbatore - 641018.
3. The District Fire Officer
Fire Extinguishing and Services
Dharmapuri.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of transfer issued by the first respondent in P.U.No.165/2021/Na.Ka.No. 115/Aa1/2021 dated 17.06.2021, and to quash the same and to direct the respondents herein to allow the petitioner to serve in



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Pappireddypatti Fire Station at Dharmapuri.

For Petitioner : Mr. R.Subhash Chandran
for Mr. M.Ravi

For Respondents : Mr. M.Murali, Government Advocate

ORDER

This writ petition has been filed against the proceedings in Pa.Vu.No. 165/2021 Na.Ka. No.115/Aa1/2021 dated 17.06.2021 issued by the first respondent, transferring the petitioner from Pappireddypatti to Gudalur, while he was working as Fireman.

2. A perusal of the impugned order shows that the same was issued basing upon the report submitted by the respondent no.3 making certain allegations against the petitioner of misconduct. However, without affording any opportunity of hearing or putting the petitioner on notice regarding such misconduct, the impugned transfer order came to be issued. From the impugned order itself, it is evident that it is an alleged misconduct on the part of the petitioner, he was transferred from Pappireddypatti to Gudalur.

3. This Court, while entertaining the writ petition, having taken note that the allegations that are made without putting the petitioner on notice, granted



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interim stay by order dated 28.06.2021 and the said order reads as follows:-

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“ This Court is convinced that the transfer is on the basis of recommendations of the third respondent based on certain allegations. It is admitted that the order of transfer is without giving any opportunity to the petitioner. Hence, there shall be an order of interim stay.”

Seeking vacation of the said interim order, the respondent no. 3 filed a counter-affidavit along with a vacate petition. This Court having gone through the contents of the counter-affidavit filed by the respondent no.3 and on perusal of the impugned order, is convinced that it is only on certain misconduct alleged to have been committed by the petitioner herein, the impugned transfer order came to be issued.

4. It is settled law that no transfer can be effected as a measure of punishment without affording opportunity to the employee concerned. But the respondents will always have power and authority to transfer any employee on administrative ground or for exigencies of service. However, in the instant case, it is not the transfer on administrative ground for exigencies service, the petitioner has been transferred from Pappireddypatti to Gudalur, but because of the alleged misconduct of the petitioner. As the Courts have repeatedly held



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that any order of transfer, as a measure of punishment, that too without putting the delinquent on notice and without issuing due procedure is bad in law. In such circumstances, this Court is of the considered view that the impugned order cannot be sustained under law and the same is liable to be set aside. At the same time, the power of the respondents from transferring the petitioner from one place to another place cannot be disputed. It is always open for the respondents to effect any such transfer on administrative reasons or because of exigencies service etc., In the circumstances, the impugned order in Pa.Vu.No. 165/2021 Na.Ka. No.115/Aa1/2021 dated 17.06.2021 is set aside granting liberty to the respondents to take appropriate action as may be advised in accordance with law.

5. Accordingly, the Writ Petition stands allowed to the extent indicated above. Consequently, the connected Miscellaneous Petitions are closed. No costs.

25.04.2024

Index : Yes/No

Speaking order /Non-speaking order

Neutral Citation : Yes/No

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MUMMINENI SUDHEER KUMAR, J.

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