



WEB COPY



W.P.No.19081 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.19081 of 2022
and W.M.P.No.18390 of 2022

A.Karuppasamy

...Petitioner

-Vs -

1. The Director General of Police/
Director General of Prisons and
Correctional Services,
Whannels Road,
Egmore, Chennai -600 008.

2. The Superintend of Central Prison,
Central Prison – 2,
Puzhal, Chennai – 600 066.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the order passed by the second respondent in No.1706/Po.1/2022 dated 13.07.2022 and quash the same.

For Petitioner : Mr.S.Conscious Ilango

For Respondents : Mrs.R.L.Karthika
Government Advocate.



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ORDER

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This writ petition has been filed challenging the order passed by the second respondent dated 13.07.2022, thereby transferring the petitioner from Central Prison, Puzhal, Chennai to Central Prison, Nagapattinam.

2. The petitioner was appointed as Jail Warden Grade-II on 16.01.2013. While the petitioner was working at Coimbatore Central Prison on 07.02.2015, he was sent to Palayamkottai Central Prison on deputation duty. Thereafter on 31.10.2017, he was transferred to Kovilpatti Sub Jail on his request. From Kovilpatti Sub Jail, the petitioner was transferred to Central Prison I, Puzhal on 12.01.2018. The said order of transfer was challenged before the Madurai Bench of this Court in W.P.(MD).No.21748 of 2018 and obtained order of interim stay. By virtue of interim order, the petitioner was continued in Kovilpatti Sub Jail. Finally the writ petition was withdrawn and the petitioner had joined in the Central Prison, Puzhal-I, Chennai. Once again, the petitioner was transferred from Central Prison I, Puzhal to Central Prison, Palayamkottai on 19.05.2020.

3. While being so, the petitioner was served with charge memo



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alleging that he failed to salute properly to the Deputy Jailor. On the said charge memo, enquiry was conducted and he was placed under suspension. Subsequently, he was reinstated into service and transferred to Central Prison II, Puzhal and now he is working as Grade II Warden.

4. When the petitioner was working at Palayamkottai Central Prison, the Assistant Jailor had quarreled and another complaint has been lodged as against the petitioner alleging that the petitioner failed to salute properly. In pursuant to the said complaint, the petitioner was served with charge memo dated 24.12.2020. Another compliant was also lodged and the petitioner was once again suspended from service. On the said complaint, another set of charge was issued on 09.04.2021.

5. While pending disciplinary proceeding, the petitioner was reinstated into service by revoking the order of suspension and transferred from Central Prison, Palayamkottai to Central Prison-2, Puzhal, Chennai. When the petitioner was working in Central Prison -2, Puzhal, he was once again transferred to Nagapattinam by the proceeding dated 13.07.2022. It was challenged in this writ petition and this Court granted interim order of stay at the time of admission. Therefore, still the



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petitioner is continuing as Grade 2 Warden in the Central Prison 2, Puzhal.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7. On perusal of the counter affidavit filed by the second respondent revealed that the petitioner instigated one prisoner to furnish a letter against the prison officials and doctor for exhibiting in You Tube channel. On discreet enquiry, it was confirmed and the petitioner had a habit of forming group and sending false complaint petitions against the prison administration. Hence, the petitioner was transferred on administrative grounds.

8. In this regard, the learned counsel appearing for the petitioner relied upon the judgment of this Court in ***W.P.Nos.11352 & 17393 of 2009*** dated 08.10.2009 in the case of ***K.M.Elumalai Vs. The Superintendent of Prison & anr.***, in which, this Court dealt with the issue whether the impugned order of transfer can be sustained based



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upon a discreet enquiry conducted behind the back of the petitioner on the ground of public interest or not and the same would be in violation of Principles of natural justice or not and this Court held that though the impugned order of transfer passed on administrative grounds, but it appears that the order was passed by way of punishment and based on the complaint against the conduct of the petitioner. If that be so, the petitioner is certainly entitled for proper opportunity to defend himself as to whether the complaints against him by the public or by the headmaster is proper or not by way of an enquiry.

9. In the case on hand also, on perusal of counter, it revealed that the order of transfer passed in lieu of punishment without conducting any enquiry. Though the order of transfer says that the petitioner was transferred on administrative ground, on perusal of counter affidavit, the transfer order was passed on some adverse remarks/complaints received against the petitioner. On the strength of the complaints, enquiry was conducted and he was transferred to Central Prison, Nagapattinam.

10. Further, in view of the interim order, so far the order of transfer is not acted upon. Therefore, it cannot be sustained and liable to



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be quashed. Accordingly, the impugned order passed by the second respondent in No.1706/Po.1/2022 dated 13.07.2022, is hereby quashed.

It is made clear that the respondents are at liberty to proceed with the disciplinary proceeding as against the petitioner.

11. In the result, the Writ Petition stands allowed. Consequently, connected miscellaneous petition is closed. There shall be no orders as to costs.

25.03.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No

rts



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