



W.P.(MD).No.1111 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.02.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.1111 of 2024
and W.M.P(MD)No.1140 of 2024

P.Thiru Selvaraja

... Petitioner

Vs.

1.The Joint Director of School Education (Personnel),
Office of the Director of School Education,
College Road, Chennai – 600 006

2.The Chief Educational Officer,
Virudhunagar District,
Virudhunagar

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of certiorari calling for the records order passed by the 1st respondent in his proceedings in Na.Ka.No.001043/ C1/E2/2024 dated 05.01.2024 and quash the same as illegal.

For Petitioner : Mr.H.Mohamed Imran
for M/s.Ajmal Associates

For Respondents : Mr.M.Sarangan
Additional Government Pleader



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ORDER

The petitioner was initially appointed as B.T Assistant on 11.08.1998 at the Government Higher Secondary School, Thondi, Ramanathapuram District. Further, he was posted as the Head master in Government High School, Pattampudur, Virudhunagar District. While he was working in the said School, he was given with additional charge of Personal Assistant to Chief Educational Officer on 07.11.2023. A surprise inspection was conducted. During the said inspection, an amount of Rs.13,000 /- was recovered from the petitioner. Pursuant to the same, First Information Report in Crime No.10 of 2023 came to be registered as against the petitioner and others for the offences under Section 7 of Prevention of Corruption Act, as amended in 2018. The petitioner has also properly explained the possession of Rs.13,000/- since it was recovered from him due to apprehension. While so, the impugned order of transfer dated 05.01.2024 came to be issued by the 1st respondent by transferring the petitioner to a school situated in a far away place. Challenging the same, this Writ Petition came to be filed.

2. Mr.Mohamed Imran, learned counsel for the petitioner submitted that the very nature of the impugned order dated 05.01.2024 itself would make it



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clear that the same is a punitive transfer order which has been clearly expressed in the said order of transfer. The same is effected only due to the pendency of the case in Crime No. 10 of 2023 as registered by the Vigilance and Anti corruption Department. Contending that the impugned transfer order is vitiated by *malafide* and also considering the fact that the same is punitive in nature, the learned counsel for the petitioner prayed for quashing the transfer order.

3. Per contra, the 2nd respondent has filed a counter. Mr.Sarangan, learned Additional Government Pleader submitted that transfer of an employee is an incident of service and transfer of employee should be considered as exigency of service and an employee has no fundamental right to post as per their choice. A criminal case has been registered as against the petitioner on the basis of recovery of Rs.13,000/- in a surprise inspection conducted by the Vigilance and Anti corruption Department on secret information and if the petitioner is not immediately transferred from the same destination there is every possibility for the petitioner to tamper the available evidence. Accordingly, he prayed for the dismissal of this Writ Petition.



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4. However, the learned counsel for the petitioner contended that he is already relieved from the post of Personal Assistant to the Chief Educational Officer and therefore, the question of tampering of evidence would never arise.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

6. Even a casual reading of the impugned order of transfer dated 05.01.2022 passed by the 1st respondent would reveal that the same is a punitive transfer order. He drew the attention of this Court to the various vacancies which are available in Virudhunagar District and Madurai District and if at all the respondents are going to transfer the petitioner, the petitioner could be accommodated to any other place in the District of Virudhunagar and Madurai.



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7. The learned Additional Government Pleader vehemently opposed the same and pressed for dismissal of the Writ Petition.

8. Considering the punitive nature of the impugned order of transfer, this Court hereby quashes the impugned transfer order and directs the 1st respondent to transfer the petitioner to the vacancy available in Government High School, Vannivelanpatti, Madurai, on receipt of a copy of this order.

9. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

26.02.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes

CM

To

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2. The Chief Educational Officer,
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L.VICTORIA GOWRI, J.

CM

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