



W.P.(MD)No.6007 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.6007 of 2024

and

W.M.P.(MD).Nos.5644 and 5645 of 2024

S.Anthony

... Petitioner

Vs.

1.The District Collector,
Tenkasi,
Tenkasi District.

2.The Block Development Officer,
Alangulam Panchayat Union,
Alangulam Taluk,
Tenkasi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of transfer vide Na.Ka.No.COLRD/823/2024-N7 dated 07.03.2024 and to quash the same as illegal and consequently direct the first respondent to permit the petitioner to work under the Nallur Panchayat Office under the light of the earlier transfer order passed in his favour vide Na.Ka.No. COLRD/2383/2023-N7 dated 24.01.2024.



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For Petitioner : Mr.C.M.Arumugam

For R-1 : Mr.J.Ashok
Additional Government Pleader

ORDER

Heard Mr.C.M.Arumugam, learned counsel for the petitioner and Mr.J.Ashok, learned Additional Government Pleader for the respondent no.1.

2. This Writ Petition has been filed seeking to quash the transfer order dated 07.03.2024 and consequently direct the first respondent to permit the petitioner to work under the Nallur Panchayat Office under the light of the earlier transfer order passed in his favour vide Na.Ka.No. COLRD/2383/2023-N7 dated 24.01.2024.

3. The petitioner's grievance is that he was frequently transferred from place to place. The petitioner has been subjected to transfer on three occasions in the recent past. Attention was drawn to the order of transfer issued to the petitioner on 15.04.2023 by the first respondent, transferring the petitioner from Nallur Panchayat to Kadanganeri Panchayat. Thereafter on 24.01.2024, the petitioner was transferred from Kadanganeri Panchayat to Nallur Panchayat. Once again the petitioner was transferred third time through the present



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impugned order 07.03.2024 from Nallur Panchayat to Kadaganeri Panchayat.

The learned counsel for the petitioner submitted that the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules 2023, Rule No.13 would contemplate that the Block Development Officer is the competent authority to effect transfer within the block. Transfer within the district may be issued by the Personal Assistant (Development) to the District Collector. The Commissioner / Director of Rural Development and Panchayat Raj may transfer any Village Panchayat Secretary from one district to another district on administrative grounds. So it is claimed by the petitioner that the authority who had issued the transfer order had usurped the power of lower level officers.

4. No doubt, the District Collector is the Inspector of Panchayat and he is the head of the administration. The Rule says that the "transfer within the block" may be made by the Block Development Officer. That does not deprive the power of the superior officers to effect transfer. However, the lower rank authority like the Block Development Officer can also pass a transfer order if the transfer is within the block. So the petitioner cannot canvass a point that the Inspector of Panchayat has usurped the power of the lower level officers by misconstruing Rule 13 of the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules 2023.



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5. Mr.J.Ashok, learned Additional Government Pleader submitted that after transferred the petitioner to Nallur Panchayat, representations were made to the District Collector that certain irregularities were committed. Hence it is necessitated to transfer the petitioner from Nallur to Kadanganeri, considering an impartial enquiry that should be conducted in respect of the allegations. The petitioner is holding the post of Panchayat Secretary at Nallur and when the allegations were made against the Secretary himself, no effective enquiry can be done in respect of those allegations by having the petitioner himself in the relevant place/seat. The transfer order is seen to be stating politely that the petitioner has been transferred on administrative reasons.

6. Mr.C.M.Arumugam, the learned counsel for the petitioner submitted that in such case, the transfer issuing authority should state the reason for transfer.

7. There have been several administrative contingencies which may require the authority concerned to take a decision about the transfer in order to have a better administration. In such cases, the employees cannot demand explanation for the administrative contingencies which prompted a transfer



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order. The petitioner knows very well that the transfer is incident of his service and he cannot challenge the order of transfer unless there is any apparent malafide intention attached to the same. In the instant case, the situation is otherwise, because the petitioner seems to have been transferred on allegations and on the demand to conduct a fair enquiry at Nallur Panchayat. Just because the petitioner happened to face frequent transfers within a short span of one year, that itself cannot be perceived as transfer effected with any malafide intention.

8. With the above observations, this Writ Petition is **disposed of**. No costs. Consequently, connected miscellaneous petitions are closed.

15.04.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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R.N.MANJULA, J.

Nsr

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