



W.P.(MD).No.6872 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.6872 of 2024
and WMP(MD) No.6430 of 2024

K.Karnan

... Petitioner

Vs

1. The Joint Director (Higher Secondary Education),
Department of School Education,
Chennai - 600 006.
2. The Chief Educational Officer,
Madurai, Madurai District.
3. The Head Master,
Government Girls Higher Secondary School,
Thirumangalam, Madurai District.
4. The Head Master,
Government Girls Higher Secondary School,
Kottampatti, Madurai District.

... 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 relating to the impugned order of transfer issued by the 1st respondent in Na.Ka.No. 49462/W1/E2/2023-2, dated 15.03.2024 and quash the same as illegal.



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For Petitioner : Mr.M.Ajmal Khan, Senior Counsel

For Respondents : Mr.M.Lingadurai
Special Government Pleader

ORDER

The petitioner has filed this writ petition challenging the impugned transfer order issued by the 1st respondent in Na.Ka.No.49462/W1/E2/2023-2, dated 15.03.2024 as illegal.

2.Heard Mr.M.Ajmal Khan, the learned Senior Counsel for the petitioner and Mr.M.Lingadurai, the learned Special Government Pleader appearing for the respondents. Perused the materials available on record.

3.According to the petitioner, vide impugned transfer order, dated 15.03.2024, he has been transferred from Thirumangalam to Kottampatti in Madurai district. The above transfer is punitive transfer, which is in violation of principles of natural justice. It is submitted by the learned counsel for the petitioner that the petitioner is a senior P.G.Assistant and in the pretext / administrative reasons, the senior has been transferred from Thirumangalam to Kottampatti, while the juniors are available below the petitioner, further



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submitted that the impugned order has been passed in the middle of the academic year.

4.It is learnt that prior to the order of transfer, there was some enquiry held based on the complaint given by the Headmistress of the School against the petitioner stating that the petitioner had permitted the students to cross-value the papers.

5.The learned Special Government Pleader appearing for the respondents submitted that the interim stay granted by this Court has already been vacated and the petitioner is also relieved from Thirumangalam, in order to enable him to join at Kottampatti.

6.However, it is claimed by the learned Senior Counsel appearing for the petitioner that it is a transfer coupled with motive and in support of his argument, he relied upon the decision of the Hon'ble Apex Court in ***Somesh Tiwari Vs Union of India and others*** reported in **2009 (2) SCC 592**. In the said order, it is stated in Para No.11 as follows:

“11. The orders under challenge before the Tribunal were, thus, the orders dated 22nd August, 2005 ; 19th October,



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2005 and 28th December, 2005. Inter alia on the premise that the appellant had not reported at Ahmedabad and furthermore that the order of transfer was an administrative one, the Tribunal by its order dated 14th March, 2006 held :-

"19. On perusal of the records, I find that the order of transfer is on administrative exigencies. The applicant has All India transfer liability. An order of transfer should normally be eschewed and should not be countenanced by the Tribunal as though they are Appellate Authorities over such orders, which could assess the niceties of the administrative needs and requirements of the station concerned. This is for the reason that Tribunals cannot substitute their own decisions in the matter of transfer for the of (sic) competent authorities of the State and even allegations of malafide when made must be such as to inspire confidence in the court or as based on concrete materials and ought not to be entertained on the mere making of its or on consideration borne out of conjectures or surmises and except for strong and convincing reasons, no interference could ordinarily be made an order of transfer.

20. Since the applicant's request has been considered and he has been transferred from Shillong to Ahmedabad, even then the applicant has not reported for duty at Ahmedabad and he is still challenging the order of transfer (A-1). The applicant has been transferred under the modified order and the earlier orders merge with the



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present modified order. The applicant did not honor the impugned modified order of transfer. Now he is asking for recasting of the original order dated 22.8.2005 including the modified order. I find that there are no allegations against any impugned order of transfer is an administrative order. The authorities can extract service of the applicant wherever they want. When the action of the Respondents is within their purview, I am not inclined to interfere with the impugned orders.

21. I considered the averments made in the pleadings and also the arguments of the learned counsel for the parties. I am of the considered view that there is no illegality or irregularity committed by the Respondents while passing the impugned orders. They have exercised their powers within their purview. The Tribunal need not interfere with the impugned orders. The applicant has not made out a case for grant of reliefs and accordingly the OA is dismissed. No costs."

7.The learned Senior Counsel appearing for the petitioner further submitted that the transfer has been effected on malafide ground and it is liable to be set aside. It is further claimed that the transfer order itself is a punishment and it was passed without giving opportunity to the petitioner in respect of the allegations made against him and further it is stigmatic.



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8.The learned Special Government Pleader submitted that the petitioner has been transferred inside Madurai District purely for administrative reason and the petitioner need not consider it as a punitive measure.

9.Even while, the enquiry is pending on certain allegations, it is quite possible to effect transfer due to administrative reason. It cannot be said in all events of transfer there is a malice or punitive intention. It is always open to the petitioner to participate in the enquiry proceedings, if disciplinary proceedings has been initiated against him. But it is for any individual in service to expect a notice and opportunity to be given to him before effecting a transfer order.

10.The transfer order need not be viewed as a stigma as the transfer is just an incidence of service. If transfer orders are viewed as stigmatic no individuals in service can work in any department and neither the administrative machinery can function effectively. Every individual prefers to join Government service by accepting the terms of employment which includes transfer. Hence, the order of transfer cannot be conceived as an act of stigma.



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11. Accordingly, this writ petition stands dismissed. There shall be no order as to costs. However, it is upto the petitioner to place a request transfer in the routine fashion, as how such requests are made by the individuals in service and seek for transfer for any of the acceptable reasons. Consequently, connected miscellaneous petition is closed.

05.04.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes

PNM

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**ORDER IN
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