



WP(MD) No.14237 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.06.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.14237 of 2024
and
W.M.P(MD)No.12481 of 2024

S.Mubeen Bhanu

... Petitioner

Vs.

1.Conservator of Forest / Field Director,
Kalakad Mundanthurai Tiger Reserve,
Tirunelveli.

2.Deputy Director / Wild Life Warden,
Project Tiger,
Mukkodal Road,
Ambasamudram,
Tirunelveli District.

3.District Forest Officer / Wild Life Warden,
Wild Life Sanctuary,
Kanyakumari Division,
Vadachery,
Nagarkoil,
Kanyakumari District.

....Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records of the 1st respondent herein in his proceedings in S.O. No. E1/65/2024 dated 18.06.2024 and to quash the same.

For Petitioner : Mr.G.Chandrasekar

For Respondents : Mr.S.Shanmugavel

Additional Government Pleader

ORDER

The present writ petition has been filed seeking a Writ of Certiorari to call for the records of the 1st respondent herein in his proceedings in S.O. No. E1/65/2024 dated 18.06.2024 and to quash the same.

2. Heard Mr.G.Chandrasekar, learned counsel for the petitioner and Mr.S.Shanmugavel, learned Additional Government Pleader Counsel appearing for the respondents.



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3. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

4. The petitioner is working as Assistant in second respondent office on her transfer from Chennai on 06.05.2022. The petitioner has been served with transfer order on 18.06.2024 by transferring her from Ambasamudram to Kanyakumari District for administrative reasons. The petitioner completed only two years of service at Ambasamudram and she is the legal guardian of her younger sister, who is mentally retarded.

5. Attention was drawn to the Government Order in G.O.(Ms)No.107, dated 03.09.2020 which would state that the Government servants in 'Group A, B, C' services who had mentally retarded and differently-abled children can make a request for the transfer, even before completion of three years as mandated in the general transfer policy. The said reason can be considered for retaining the Government servant in the same station for upto five



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years. In the event, without any request from the petitioner, the petitioner has been transferred from the second respondent office to the third respondent office and that would cause much inconvenience to the petitioner for taking care of her mentally retarded sister.

6. The learned Additional Government Pleader submitted that the petitioner has been given with two charges for dereliction of duty and she was imposed with a punishment for postponement of next increment for one year without cumulative effect and she was served with four memorandums for various misconduct and dereliction of duty and she refused to receive the memorandum. It is further stated that the petitioner was disobeying the orders of the Senior Officer and she does not complete her work in time, so, on the administrative grounds, she has been transferred.

7. The learned counsel for the petitioner submitted that the transfer cannot be added as a punishment and the punishment



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can be awarded against the petitioner for the alleged charges made against her, though the above submission is correct. Frequent lapses would cause much inconvenience to the public work and that might sometimes invite administrative action like transfer. During such circumstances, the transfer cannot be treated as mere punishment, but an administrative action in public interest.

8. At the same time, transfer order cannot be taken as a threat against employees who have given the displeasure of this period for some reason or other. So far as this petitioner is concerned, she has not completed three years in the second respondent's office. Similarly, the Government servants cannot take advantage of the transfer policy for their negligence in their work by giving a self assurance that they cannot be disturbed before five years in view of the Government Orders for special reasons.

9. The learned counsel for the petitioner submitted that the petitioner was on leave and after she joined, the transfer order



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has been given. So availing leave cannot be considered as misconduct, unless the leave was taken at an inappropriate time that the demand of the office needs the services of the individual and it was not an appropriate time to send her on leave, the petitioner should understand that the demands of the office and effect proper course correction and accordingly, the first respondent shall also consider the extraordinary situation of the petitioner and also in the light of the earlier Government Orders to retain her services by passing appropriate orders.

10. Since the petitioner has already given a representation dated 25.06.2024, the first respondent shall consider the representation of the petitioner and pass fresh orders by retaining the petitioner in the second respondent office.

11. In the result, the writ petition is allowed and the impugned order of the first respondent, dated 18.06.2024, is set aside. The first respondent is directed to re-consider the



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representation of the petitioner dated 25.06.2024 and pass orders afresh for retaining the service of the petitioner in the second respondent office within a period of one week from the date of receipt of a copy of this order. In the interregnum, the petitioner shall not be relieved and there shall not be any break in her service. No costs. Consequently, connected miscellaneous petition is closed.

28.06.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No

RM

Note : Issue order copy on 02.07.2024



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To
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R.N.MANJULA, J.

RM

Order made in
W.P.(MD)No.14237 of 2024

28.06.2024