



WP.(MD).No.22916 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 02.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.22916 of 2023

and

W.M.P.(MD)Nos.19136 and 19138 of 2023

P.Sivakumar

... Petitioner

Vs.

1.The Commissioner,
Treasuries and Accounts Department,
Panagal Maligai,
Saidapet,
Chennai.

2.The District Treasury Officer,
Theni,
Theni District.

3.The District Treasury Officer,
The Nilgiris,
The Nilgiris District.

4.The Assistant Treasury Officer,
Theni,
Theni District.

5.R.Murugesan

... Respondents



WP.(MD).No.22916 of 2023

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the impugned order passed by the first respondent vide his proceedings in Rc.No.40311/2021/N1-T & P-4 dated 11.09.2023 (served to the petitioner on 15.09.2023) and consequential impugned order passed by the third respondent vide his proceedings in Na.Ka.No.2087/A1/2023 dated 14.09.2023 and consequential impugned order passed by the second respondent vide his proceedings in Na.Ka.No.6812/2020/A1 dated 15.09.2023 and quash the same as illegal.

For Petitioner : Mr.H.Mohammed Imran
M/s.Ajmal Associates
For Respondents 1 to 4 : Mr.P.Veera Kathiravan
Additional Advocate General
Assisted by S.Shaji Bino,
Special Government Pleader

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorari to quash the impugned order passed by the first respondent vide his proceedings in Rc.No.40311/2021/N1-T & P-4 dated 11.09.2023 (served to the petitioner on 15.09.2023) and the consequential impugned order passed by the third respondent vide his proceedings in Na.Ka.No.2087/A1/2023 dated 14.09.2023 and the consequential impugned order passed by the second respondent vide his proceedings in Na.Ka.No.6812/2020/A1 dated



WP.(MD).No.22916 of 2023

15.09.2023.

WEB COPY

2.The petitioner is presently working as a Additional Sub Treasury Officer, Sub Treasury, Theni District. While so, the first respondent vide impugned proceedings dated 11.09.2023, transferred the petitioner in the place of the fifth respondent and accommodated the fifth respondent in his place vide proceedings dated 11.09.2023. Pursuant to the transfer order, both the petitioner and the fifth respondent had joined in Ooty and Theni respectively. However, the fifth respondent joined only on the condition without prejudice to this pending Writ Petition.

3.The learned counsel Mr.Mohammed Imran, for the petitioner vehemently submitted that the impugned order of transfer came to be passed exclusively for the purpose of accommodating the fifth respondent. In view of the same, the said transfer order need to be quashed and pressed for allowing the writ petition.

4.The learned Additional Advocate General Mr.P.Veera Kathiravan, for the respondents 1 to 4 submitted that the Hon'ble



WP.(MD).No.22916 of 2023

Apex Court in case of ***State of UP and another v. Gobardhan***

Lal reported in ***(2004) 11 Supreme Court Cases 402***, has already mandated that the transfer order should not be normally interfered by the Courts of law except when the transfer order is shown to be vitiated by malafides and the same is in violation of any statutory provisions or the same is passed without authority. On that basis, the impugned order of transfer cannot be disturbed and the same is being passed by the first respondent/Commissioner, Treasuries and Accounts Department. The fifth respondent is the person who suffered from covid during pandemic and as the result of which, he is continuously suffering from lung infection. When he had made a specific request to get transferred from Ooty to Theni on health grounds, the respondents authorities could not negate the same and they have appreciated the same only after considering the fact that the petitioner has been in Theni District for a period of more than eight years and pressed for dismissal of the Writ Petition.

5.Heard Mr.H.Mohammed Imran, for M/s.Ajmal Associates learned counsel appearing for the petitioner, Mr.P.Veera Kathiravan, learned Additional Advocate General appearing for the



WP.(MD).No.22916 of 2023

respondents 1 to 4 and perused the entire materials available on record.

6.Though the learned Additional Advocate General insisted upon the limited scope of this Court in interfering the order of transfer citing the order passed by the Hon'ble Apex Court in the case of ***State of UP and another v. Gobardhan Lal*** reported in ***(2004) 11 Supreme Court Cases 402***, this Court is of the considered opinion that the impugned order of transfer has been passed exclusively for the purpose of accommodating the fifth respondent that too at the request of the fifth respondent, the petitioner has been disturbed. A learned Single Judge of this Court has dealt with similar case in ***R.Srinivasan v. TANGEDCO and others*** in ***W.P.No.18714 of 2021*** dated 09.09.2021, and has passed favourable orders, observing that an employee should not be disturbed for the purpose of accommodating another employee under the guise of administrative grounds and the relevant portion is extracted as follows:-

“6. The impugned transfer order has been passed only to accommodate the fourth respondent who had joined duty at Ponnur/Vandavasi, Thiruvannamalai District some time only in 2020. Before displacing a person like



the petitioner, the respondents ought to have obtained a consent of the petitioner. Transfers under the guise of administrative grounds cannot be allowed to disturb an employee contrary to the Rules.

7. Even if the fourth respondent had a legitimate right to be considered for being transferred, such transfer cannot be made at the cost of an Officer who is otherwise entitled to continue in service merely by citing and stating as administrative grounds. Clearly, the transfer is intended only to accommodate the fourth respondent and such transfer order cannot pass off as a transfer order under the guise of administrative grounds. Under these circumstances, the impugned transfer order transferring the petitioner cannot be sustained.

10. Since the impugned transfer order has been issued only with a view to accommodate the fourth respondent, such transfer cannot be sustained and cannot be allowed to pass off as the transfer made on administrative grounds. The impugned order therefore stands quashed with consequential relief to the petitioner. The respondents are therefore directed to re-transfer the fourth respondent back to Ponnur/Vandavasi, Thiruvannamalai District or retain the fourth respondent subject to any other vacancy. “

7. Fully fortified with the order passed by this Court in the aforesaid case and considering that an employee cannot be allowed



WP.(MD).No.22916 of 2023

to be disturbed under the guise of administrative grounds for the purpose of accommodating another person contrary to the rules and in the absence of any transfer policy, I am inclined to quash the impugned order passed by the first respondent.

8. Accordingly, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

02.02.2024

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



WEB COPY



WP.(MD).No.22916 of 2023

L.VICTORIA GOWRI, J.

Mrn

To

- 1.The Commissioner,
Treasuries and Accounts Department,
Panagal Maligai,
Saidapet,
Chennai.
- 2.The District Treasury Officer,
Theni,
Theni District.
- 3.The District Treasury Officer,
The Nilgiris,
The Nilgiris District.
- 4.The Assistant Treasury Officer,
Theni,
Theni District.

W.P.(MD)No.22916 of 2023

02.02.2024