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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.23400 of 2023

and

W.M.P(MD)No.19605 of 2023

R.Alexander

... Petitioner

Vs.

1.The Secretary to Government,
Municipal Administration and
Water Supply Department,
Secretariat, Chennai.

2.The Commissioner,
Madurai City Municipal Corporation,
Aringar Anna Maligai,
Madurai-2.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 1st respondent in G.O.(Vaa) No.193 Municipal Administration and Water Supply (MC 7) Department dated 12.09.2023 as far as the petitioner alone and quash the same as illegal and consequently direct the respondents to permit the petitioner to continue as Assistant Executive Engineer in the office of the 2nd respondent.



For Petitioner : Mr.P.Gunasekaran

For Respondents : Mr.R.Baskaran
Additional Advocate General
assisted by
Mr.S.Shaji Bino
Special Government Pleader for R1
Mr.F.Deepak
Standing Counsel for R2

ORDER

The instant writ petition has been filed by an Assistant Executive Engineer of the Madurai City Municipal Corporation, challenging the transfer order passed by the first respondent herein, transferring him from Madurai Corporation to Tirunelveli Corporation.

2.According to the learned Counsel appearing for the writ petitioner, the petitioner has been agitating for his promotion for the past two years and since promotion was belatedly granted to him, the petitioner has approached this Court by filing contempt proceedings. Only because of the filing of the contempt proceedings, the petitioner has been transferred from Madurai Corporation to Tirunelveli Corporation.



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3.The learned Counsel appearing for the writ petitioner has further contended that the petitioner's seniority in Madurai City Municipal Corporation would be lost, if he is transferred to Tirunelveli City Municipal Corporation. He is about to be promoted to the post of Superintending Engineer and therefore, any transfer from Madurai Corporation to Tirunelveli Corporation would affect his further promotional opportunities. Hence, he prayed for quashing the order of transfer.

4.Per contra, the learned Additional Advocate General appearing for the first respondent herein has relied upon the Rule 199(3) of the Tamil Nadu Urban Local Bodies Rules, 2023 to the effect that when there is no express provision under the rules, the members of the service are to be governed by the provisions of the Tamil Nadu Government Servants(Conditions of Service) Act, 2016 applicable to the Government Servant are similar status and stand. The learned Additional Advocate General appearing for the first respondent has brought to the notice of the Court that as per Rule 203 of the Tamil Nadu Urban Local Bodies Rules, 2023, the petitioner falls within clause(4) of the Engineering Wing. The learned Additional Advocate General has also relied upon the Rule 206, wherein it is stated that the State shall be a single unit for the appointment,



promotion, reversion, transfer and discharge for all the posts in the Tamil Nadu Municipal Service. As per Rule 207 of the Tamil Nadu Urban Local Bodies Rules, 2023, the Government shall be the competent authority for effecting transfer and posting for all the posts in the Tamil Nadu Municipal Service. Hence, the learned Additional Advocate General had contended that the Government is the competent authority to effect transfer of the writ petitioner. He further contended that since the State is the unit for the Assistant Executive Engineer cadre, the transfer order will not in any way affect the seniority or the promotional rights of the writ petitioner.

5.The learned Additional Advocate General appearing for the respondents has further contended that in the impugned transfer order, apart from the writ petitioner, 18 other Assistant Executive Engineers have been transferred and therefore, the question of order being passed on vindictive or malafied nature does not arise and it is purely on administrative grounds.

6.I have carefully considered the submission made on either side and perused the materials available on records.



7.As far as the contentions of the learned Counsel appearing for the writ petitioner with regard to his downgrading his seniority in the cadre of Assistant Executive Engineer is concerned, the said issue is a subject matter of another writ petition and therefore, this Court is not inclined to go into the said issue.

8.A perusal of the Rule 199(3), 203, 206 and 207 of the Tamil Nadu Urban Local Bodies Rules, 2023 reveal that the State is the unit for Assistant Executive Engineer and therefore, any transfer order issued to them would not in any way affect the seniority or the right to get promotion. It also reveals that the Government is the competent authority to pass order of transfer. In the present case, the impugned order of transfer having been passed by the first respondent who is the Principal Secretary of the concerned department and hence, he is the competent authority to pass orders of transfer.

9.In view of the above said deliberations, this Court is of the considered opinion that there are no grounds to interfere with the order of transfer. However, it is made clear that this transfer shall not affect the seniority of the writ petitioner or his right to be considered for promotion in future.



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10. With the above said observations, this writ petition stands dismissed.

No costs. Consequently, connected miscellaneous petition is also closed.

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

To

The Secretary to Government,
Municipal Administration and
Water Supply Department,
Secretariat, Chennai.



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R.VIJAYAKUMAR, J.

RJR

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