



W.A.(MD)No.2457 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2024

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CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

and

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.A.(MD)No.2457 of 2024

and

C.M.P.(MD)Nos.17183 & 17184 of 2024

S.Jeyakumar

: Appellant

Vs.

1.The Director,

Adi Dravidar Welfare Department,

Chennai – 6.

2.The District Adi Dravidar and Tribal Welfare Officer,

Ramanathapuram,

Ramanathapuram District.

: Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order passed by this Court in W.P.(MD)No. 4860 of 2024 dated 22.11.2024.

For Appellants : Mr.R.Anand

For Respondents : Mr.SRA.Ramachandran

Additional Government Pleader



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JUDGMENT

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[Judgment of the Court was delivered by **M.S.RAMESH, J.**]

The order passed in W.P.(MD)No.4860 of 2024 dated 22.11.2024, declining to interfere with the order of transfer dated 27.02.2024 is assailed in this intra court appeal.

2.The scope of interference to a challenge made to an order of transfer by the High Court in exercise of its powers under Article 226 of the Constitution of India, has been well settled to the effect that normally such order of transfers will not be interfered with, except under a few exceptions like malafide exercise of power, violation of statutory provisions, lack of authority, punitive transfers etc. One such case of the Hon'ble Supreme Court is ***Somesh Tiwari Vs. Union of India and others*** reported in ***(2009) 2 SCC 592***.

3.The learned Counsel appearing for the appellant submitted that the order of transfer is punitive in nature, since there was a false complaint against the appellant, alleging charges of creating fake bills for the food and expenditure, which was based on an anonymous petition. Since, the transfer order is the outcome of such a complaint, the order itself is deemed to be punitive in nature and hence, cannot be legally sustained. He further



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submitted that the appellant is the sole bread-winner of his family, who has two young school going children and the present transfer from Ramanathapuram District to Vellore district has caused serious prejudice to him.

4.On the other hand, the learned Additional Government Pleader would submit that the order of transfer is administrative in nature, which would not be amenable to the Writ jurisdiction. He also submitted that after the final orders were passed in the writ petition on 22.11.2024, the appellant has been relieved from his present station at Ramanathapuram District and therefore, he is required to join in the transferred place.

5.We have perused the order of transfer dated 27.02.2024, whereby the petitioner was transferred in a vacancy at Government Adi Dravidar Welfare Higher Secondary School, T.T.Mottur, Vellore District. The order does not refer to any of the allegations made by the appellant, touching upon an anonymous complaint relating to vigilance and anti-corruption. On the other hand, the order clearly states that the transfer is on administrative grounds.

6.Before the Writ Court, a counter affidavit was filed, wherein, it is admitted that there were some allegations against the



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appellant from the Directorate of Vigilance and Anti-Corruption for creating fake bills for the expenditure of food for the hostel, to which a report was called for from the District Adi Dravidar Welfare Officer, Ramanthapuram District and the same was forwarded. Mere reference in the counter affidavit to the reason for which the appellant was transferred cannot be said to be punitive in nature. On the other hand, when such complaints are received and the department is of the view that retaining the concerned employee in the same place would cause any kind of inconvenience in the working atmosphere, the concerned authority would be well within their powers to transfer, by taking an administrative decision.

7.A punitive transfer would be one where the order of transfer spells out certain delinquencies on the part of the employee and comes to a conclusive conclusion that the employee had committed such delinquencies and in consequence, he is ordered to be transferred. In other words, when the concerned authority refers to commission of some delinquency or misconduct in the order and consequently transfers him to a different station, it would amount to a punitive transfer.

8.In the instant case, no such decision has been arrived at in the order of transfer. On the other hand, the order clearly states



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that the transfer is only on administrative exigencies. While that being so, the Writ Court in exercise of its powers under Article 226 of the Constitution of India, will not normally venture to interfere with such an administrative decision. The learned Single Judge had also applied this legal ratio and rejected the petitioner's plea. We do not find any infirmity or illegality in the said order.

9.At this juncture, the learned Counsel for the appellant made a sympathetic plea that owing to his family circumstances, he may be appointed in certain vacancies that are available at Government Adi Dravidar Welfare Boys Hostel at Peraiyur and Government Adi Dravidar Welfare Boys Hostel at Paramakudi. We hasten to add here that such a decision can be taken only by the first respondent herein, after consideration of the feasibility to accommodate the appellant.

10.In the light of the above observations and findings, no interference is required to the order passed in the Writ Petition in W.P.(MD)No.4860 of 2024. Accordingly, the Writ Appeal stands dismissed. However, liberty is hereby granted to the appellant to make an appropriate application before the first respondent herein, seeking for his transfer from Vellore District to the vacant places referred to above or to any other places and on receipt of such an application, the first respondent herein shall consider



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accommodating the appellant in the vacancy and pass such orders,
within a period of four [4] weeks from the date of receipt of the
appellant's application, if any. There shall be no order as to costs.

Consequently, connected Miscellaneous Petitions are closed.

[M.S.R.,J.] & [A.D.M.C.,J.]
29.11.2024

Neutral Citation : Yes/No

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To

1.The Director,
Adi Dravidar Welfare Department,
Chennai – 6.

2.The District Adi Dravidar and Tribal Welfare Officer,
Ramanathapuram,
Ramanathapuram District.



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M.S.RAMESH, J.
and
A.D.MARIA CLETE, J.

MR

JUDGMENT MADE IN
W.A.(MD)No.2457 of 2024

29.11.2024