



W.P.(MD)No.31302 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.09.2024

CORAM:

THE HON'BLE MR JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.31302 of 2023
and WMP(MD).Nos.26839 & 26840 of 2023 and 1604 of 2024

B.Kumaradhas

..... Petitioner

VS

The Joint Commissioner/Executive Officer
Incorporated and Unincorporated Devaswom Temple
Kanyakumari District Temples
Head Office, Suchindram
Suchindram Post
Kanyakumari District

....Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari calling for the records relating to the impugned order of transfer passed by the respondent in Na.Ka.No.7073/2023-1/A2 dated 22.12.2023 and quash the same as illegal.

For Petitioner

: Mr.J.Jeyakumaran
For M/s.Kavitha.M

For Respondent

: Mr.R.Sankerganesh



W.P.(MD)No.31302 of 2023

WEB COPY

ORDER

The instant writ petition has been filed by a watchman working in the respondent temple namely Arulmighu Mandaikadu Bhagavathi Amman Temple, challenging his order of transfer to Thirumalai Arulmighu Mahadevar Temple, Kuzhithurai Zone.

2. According to the learned counsel appearing for the writ petitioner, the petitioner had lodged a complaint to the Temple Manager/Srikariyam as against one Sivakumar. The said complaint was also forwarded by the said Srikariyam to the Executive Officer. However on 22.12.2023, the petitioner was issued with a notice calling upon him to appear for enquiry on 03.01.2024 on the basis of certain allegation referred to, in the said notice. Immediately on the said date, the impugned transfer order has been passed.

3. According to the learned counsel for the writ petitioner, the petitioner having been appointed on 27.09.2022 whose probation is yet to be declared and in view of Rule 17 of Tamil Nadu Hindu Religious Institutions Employees (Conditions of Service) Rules, 2020, he cannot be transferred, if a disciplinary action is pending or contemplated against him. Hence, he prayed for quashing the



W.P.(MD)No.31302 of 2023

WEB COPY
order of transfer.

4.The learned counsel appearing for the Executive Officer of the temple had contended that they have received various allegations from female devotees relating to harassment. Therefore, the petitioner was called upon to appear for an enquiry on 03.01.2024. Since the petitioner had not appeared on the said date, the enquiry could not be proceeded with. He had further contended that since the charge memo is yet to be issued, it cannot be contended that the disciplinary action is pending as against the petitioner and therefore, there is no prohibition for the Executive Officer to issue order of transfer.

5.I have considered the submissions made and either side and perused the material records.

6.A perusal of the impugned transfer order and the notice issued by the Executive Officer on 22.12.2023 clearly reveal that some allegations have been made as against the writ petitioner for which he was called for to appear for enquiry on 03.01.2024. Rule 17 of Tamil Nadu Hindu Religious Institutions Employees (Conditions of Service) Rules, 2020 states that an employee who has completed probation, cannot be transferred, if a disciplinary action is pending or contemplated against him. In the present case, though charge memo has not been



W.P.(MD)No.31302 of 2023

issued, it is contemplated as against the writ petitioner by way of enquiry that was proposed to be conducted on 03.01.2024. Therefore, the petitioner having not completed probation and he is facing the enquiry, he cannot be transferred as per the above said Rules.

7.In view of the above said facts, the order of transfer impugned in the writ petition is hereby set aside and the writ petition stands allowed. However, the respondent is at liberty to proceed as against the writ petitioner in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

30.09.2024

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



WEB COPY



W.P.(MD)No.31302 of 2023

R.VIJAYAKUMAR, J.

msa

W.P.(MD)No.31302 of 2023
and WMP(MD).Nos.26839 & 26840 of 2023 and 1604 of 2024

30.09.2024