



W.P. No. 19275 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 17.04.2025

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

W.P. No. 19275 of 2019

and

W.M.P. Nos. 18724 and 31588 of 2019

and

W.M.P. No. 5411 of 2019

M.Swaminathan

... Petitioner

-VS-

1. The District Collector
Collectorate of Nagapattinam
Nagapattinam, Nagapattinam District.
2. The District Revenue Officer
Office of the District Revenue Officer
Nagapattinam Town & Taluk
Nagapattinam District.
3. The Revenue Divisional Officer
Office of the Revenue Divisional Office
Myladuthurai Town & Taluk
Nagapattinam District.
4. The Special Deputy Collector
Office of the Revenue Court
Myladuthurai Town and Taluk
Nagapattinam District.
5. The Tahsildar
O/o. the Taluk Office
Sirkazhi Town & Taluk
Nagapattinam District.

... Respondents



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Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Declaration, to declare that the petitioner's transfer order vide Na.Ka.2/2019/A.1 dated 12.06.2019 issued by the District Collector, Nagapattinam and District, the first respondent herein on Group Whatsapp and the Relieving Order vide Na.Ka.02/2019/A1 dated 21.06.2019 issued by the Tahsildar of Sirkazhi Town and Taluk, Nagapattinam District, the fifth respondent herein on Group Whatsapp and declaring that orders are as null and void from without serving the petitioner in person or by the register post.

For Petitioner : Mr.A.Lakshminarasimhan

For Respondents : Mr.T.Chezhian, AGP (RR1 to 5)

ORDER

The petitioner has filed this writ petition to declare that the petitioner's transfer order vide Na.Ka.2/2019/A.1 dated 12.06.2019 issued by the the first respondent, viz., the District Collector, Nagapattinam District, herein on Group Whats-app and the relieving order in Na.Ka.02/2019/A1 dated 21.06.2019 issued by the fifth respondent, viz., Tahsildar of Sirkazhi Town and Taluk, Nagapattinam District on Group Whats-app are 'null and void' as they were issued without serving the petitioner in person or by the register post.



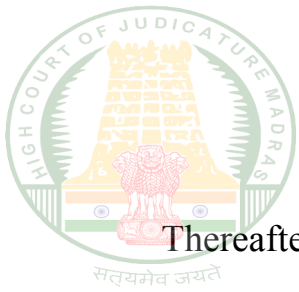
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2. Heard Mr.A.Lakshminarasimhan, learned counsel for the petitioner and

Mr.T.Chezhian, learned Additional Government Pleader for the first to fifth respondents and perused the materials placed on record, apart from the pleadings of the parties.

3. The petitioner was posted as Zonal Deputy Tahsildar (Zone-II), Sirkazhi on 12.12.2018. Between the period from 11.03.2019 to 31.05.2019, he was posted as Special Magistrate of Statics Surveillance Team, Myladuthurai Parlimentary Constituency, Nagapattinam. After the Parliamentary Election was withdrawn, the petitioner was once again posted as Zonal Deputy Tahsildar, Sirkazhi on 01.06.2019. Thereafter, the petitioner was transferred to Myladuthurai as Superintendent on 12.06.2019. The petitioner has challenged the said order by way of preferring this writ petition in which an interim order has been issued on 23.09.2019 to stay the order dated 12.06.2019 till the filing of the counter by the respondent.

4. Consequent to the said order, the petitioner was once again re-posted as Zonal Deputy Tahsildar at Sirkazhi itself on 14.09.2020. The respondent has filed their counter during October 2019 and only thereafter, the transfer order dated 14.09.2020 has been issued and that was also served upon the petitioner.



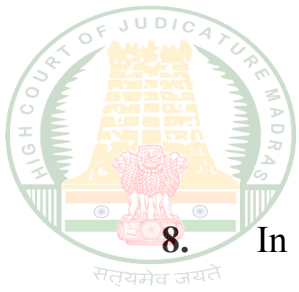
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Thereafter also, the petitioner did not join the duty for the reasons best known to him.

5. The learned counsel for the petitioner submitted that in view of the stay order, the petitioner did not prefer to join. Further, the interim order already granted is extended on 26.02.2020.

6. However, the stay order is given effect only till the date of filing of the counter, which has been filed on 31.10.2019. There cannot be any grievance for the petitioner because in pursuant to the order dated 14.09.2020, the petitioner was transferred to the same place. It would have been appropriate for the petitioner to have joined the said post.

7. The learned counsel for the petitioner further submitted that as the impugned order transferring the petitioner to Myladuthurai has not been withdrawn and there is an order of stay, it is not possible for the respondents to issue another transfer order on 14.09.2020 by transferring the petitioner to Sirkazhi.



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8. In such case, the petitioner ought to have obtained a clarification from

the Court or direction from the Court as to whether the earlier transfer order gets superseded pursuant to the subsequent transfer order issued on 14.09.2020.

In fact, the transfer order dated 14.09.2020 has been served upon the petitioner for which an endorsement has also been obtained from the petitioner. For the reasons best known to the petitioner, he had neither chosen to join duty nor challenged the order. As already stated, he has also not filed any proceedings before the Court to know the binding effect of the order.

9. Even though the petitioner has been restored to his original place, it is strange to see that he did not join duty and he has been waiting for six years by stating that proceedings are pending. In fact, for the non-compliance of the order dated 14.09.2020, he has been issued with the show cause notice calling for explanation and also to appear before the District Revenue Officer for enquiry on 10.05.2021 for non-joining. The petitioner, who did not choose to appear, has submitted his explanation on 07.05.2021 by stating that the transfer order issued on 14.09.2020 also would amount to contempt of Court.

10. To be noted that the petitioner has not taken any action for contempt of Court as well. So the conduct on the part of the petitioner would only show that



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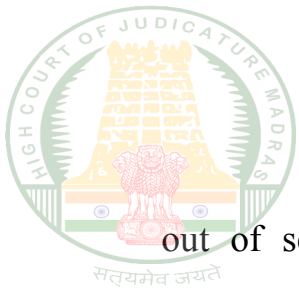
he did not incline to join duty and he was dragging the time of the Court as the

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Court proceedings has completely restrained the hands of the respondent not to restore the petitioner in his original position. Even in the spirit of the complying the interim order, the petitioner himself has frustrated the very purpose of getting the interim order from the Court or the interim order of this Court is misconstrued by the petitioner according to his own convenience.

11. In the meanwhile, Nagapattinam District has been bifurcated and a new Myladuthurai District has been formed. The petitioner has given his willingness to work in the newly formed Myladuthurai District subject to the pending proceedings. The petitioner exaggerated the order of stay granted by the Court even to the extent of not getting posted in the very same place for which he had filed this writ petition.

12. Even now, it has been submitted by the learned counsel for the respondents that the petitioner can join in Myladuthurai District by reporting to District Collector, Myladuthurai. Even if the petitioner was allowed to continue in Sirkazhi without the impugned transfer order in the first instance, the petitioner could not be permitted to continue in Sirkazhi for a continuous period of six or seven years. So after filing of this writ petition, the petitioner is



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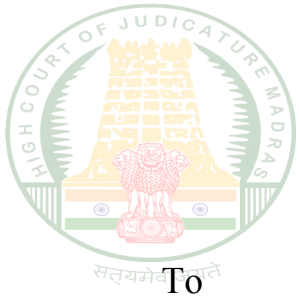
out of service without any rhyme or reason for six years. Insofar as the petitioner's out of service is concerned, it is for the respondents to take appropriate action and the pending proceedings cannot come to the rescue of the petitioner.

13. As the petitioner was allowed to join in Myladuthurai District, it is upto the respondents to issue a fresh order to that effect in order to accommodate him in Myladuthurai District.

14. With the above observations, this writ petition is disposed by directing the respondents to consult with the District Collector of Myladuthurai and issue the orders to the petitioner in order to enable him to join duty in Myladuthurai District according to his willingness within a period of four weeks. It is made clear that this Court order will not cover the period for which the petitioner is out of service by attributing his own reasons for not accepting the restoration orders already issued to him by placing him in Sirkazhi. Consequently, the connected Miscellaneous Petitions are closed. No costs.

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Index: Yes/No
Speaking /Non-speaking order
Neutral Case Citation : Yes/No
Maya



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R.N.MANJULA, J.

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