
(2018) 01 MAD CK 0539
In the Madras High Court
Case No : 1755 of 2017

C.D.Arunkumar

APPELLANT

Vs

The Managing Director

RESPONDENT

Date of Decision : 03-01-2018

Acts Referred:

Citation : (2018) 01 MAD CK 0539

Hon'ble Judges : Hluvadi G.Ramesh, Rmt.Teekaa Raman

Bench : Division Bench

Advocate : Prabhakaran, V.Jayaprakash Narayanan

Final Decision : Disposed Off

Judgement

1. Heard the learned counsel appearing for the parties.
2. The writ appeal has been filed by the writ petitioner challenging the order passed by the learned Single Judge dismissing the writ petition which sought for interference with the order of transfer in service.
3. The main grievance of the appellant/writ petitioner is that though transfer is an incident of service, he had been transferred even before completion of transfer period of three years and he had been transferred thrice within a short span of time.
4. Learned Special Government Pleader would submit that some irregularities were found with the appellant/writ petitioner, however, without taking any departmental action, he had been transferred in view of administrative exigencies, which the appellant/writ petitioner is evading to abide.
5. The learned Single Judge dismissed the writ petition on the ground that the transfer is an incident of service and moreover, when the appellant/writ petitioner has been transferred during the period he was put on

probation, he should not remain away from the transferred place and therefore, there is no justification for him to approach the court questioning the transfer.

6. It appears that the petitioner is said to have made several representation seeking for suitable place. The learned Single Judge has observed as under:-

7. When the petitioner was transferred from Cuddalore to Madurai by order dated 23.9.2016, it is not known how the petitioner has been

evading from attending the duty in the transferred place viz., Madurai, even after completion of one long year. It is submitted by the learned Senior

Counsel for the petitioner that since the impugned order has been passed as a punitive measure, the petitioner has made representations on

3.10.2016 and 14.11.2016 and anticipating response from the respondents, the petitioner was unable to join duty at he transferred place and that

cannot be considered as wilful violation of the Government Conduct Rules.

8. But, this court is unable to appreciate the said attitude of the petitioner. When the petitioner has been transferred during the period he was put

on probation, he should not remain away from the transferred place, as it is a well settled principle that the transfer is not only condition of service

but also incident of service, therefore, the petitioner has no justification to come to this court questioning the impugned transfer order, as it has been

passed only on administrative reasons.

7. We do not find any illegality in the order of the learned Single Judge. However, in view of the fact that certain difficulties are pleaded by the

appellant petitioner, we are of the view that his case can be considered in accordance with law, on the basis of his representation dated

14.11.2016, a copy of which is found in page 90 of the typed set of papers, a decision shall be taken before the end of this financial year,

provided the appellant/writ petitioner shall join duty in the transferred place within one month from today. The writ appeal is disposed of with the

above observation. No costs. The connected miscellaneous petitions are closed.