



WEB COPY



W.P.No.17818 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2022

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

**W.P.No.17818 of 2022
W.M.P.Nos.17161 and 17163 of 2022**

L.Tamil Mani

... Petitioner

Versus

1. The Managing Director,
The Tamil Nadu Co-operative Milk Producers' Federation Limited
(TCMPF),
Aavin Illam, Chamiers Road,
Nandanam,
Chennai-600 035.

2. The Joint Managing Director,
Tamil Nadu Co-operative Milk Producers' Federation Limited,
(TCMPF),
Ambattur,
Chennai-600098.

3. The Deputy General Manager (Engg.),
Dairy Cum Power Plant (DCPP),
Tiruvannamalai

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying this Court to issue a writ of Certiorarified Mandamus to call for the
records pertaining to the impugned order passed by the 2nd respondent vide



W.P.No.17818 of 2022

Ref.No.148/E3/2022 dated 16.06.2022 and to quash the same and consequently direct the respondents to allow the petitioner to work at Dairy Cum Powder Plant (DCPP), Thiruvannamalai under the control of 3rd respondent.

For Petitioner : Mr.K.Sankar

For Respondents : Mr.M.Rajendiran
AGP

ORDER

This writ petition has been filed challenging the order dated 16.06.2022 passed by the second respondent, under which, the petitioner has been transferred from Tiruvannamalai to Chennai, on the ground that the said transfer order is arbitrary and made with malafide intention.

2. According to the petitioner, she was promoted as a Manager (Dairying) through promotion order dated 17.11.2021. According to the petitioner, within a short time since the promotion, she has been transferred twice and presently she is working as Manager (Dairying) at Tiruvannamalai. According to the petitioner, even prior to her promotion, the respondents have transferred her on seven occasions and only with malafide intention and in a vindictive manner, the second respondent has issued the impugned order dated 16.06.2022 transferring the petitioner from Tiruvannamalai to Chennai.



W.P.No.17818 of 2022

3. A counter affidavit has been filed by the second respondent denying the allegations of the petitioner. According to him, as per the special bye-laws, which the petitioner has agreed to comply with and due to shortage of staff at Chennai, the transfer order has been issued. According to them, it is a routine transfer after giving due consideration to the administrative exigencies. According to them, the petitioner has agreed to serve in the District Co-operative Milk Producers Union or to get her services transferred to the Union as and when the activities of the Federation are transferred in part or in whole to the Union or any other Co-operative Organisation that may come up as a successor body to the Federation. According to them, any request for change of the place of posting different from the one mentioned in the transfer order cannot be entertained as per the bye laws. The said condition is only in accordance with the bye-laws to which the petitioner has agreed for being appointed to the post of Manager (Dairying).

4. Heard Mr.K.Sankar, learned counsel for the petitioner and Mr.M.Rajendiran, learned Additional Government Pleader appearing for the respondents.



W.P.No.17818 of 2022

5. Learned counsel for the petitioner drew the attention of this Court

to the documents filed in support of this writ petition and would submit that as seen from the documents, the petitioner has been regularly getting transferred from one place to another which will clearly reveal that the impugned order has been issued in a vindictive manner and has been issued with malafide intention. Learned counsel for the petitioner also drew the attention of this court to the following authorities in support of his contention:-

- a) *C.Balachander vs The State of Tamil Nadu*
(W.P.No.32881 of 2018)
- b) *M.Muthukumar Vs The Commissioner of Municipal Administration & 2 Ors.* (W.P.No.32832 of 2018)
- c) *The Commissioner of Municipal Administration & 2 Ors vs M.Muthukumar* (W.P.No.551 of 2019)
- d) *Dr.A.Jayachitra vs The Principal Secretary*
(W.P.No.12252 of 2020)

6. Relying upon the aforementioned authorities, the learned counsel for the petitioner would submit that frequent and unscheduled transfers without sufficient justification have to be construed as malafide and such transfers have to be deprecated as they can result in extreme hardship and demoralisation of the employee.



W.P.No.17818 of 2022

7. According to the learned counsel for the petitioner, since the petitioner is having two school going children, in the middle of the academic year, it would be very difficult for the petitioner to join at the place of transfer as per the impugned order. He would submit that in a vindictive manner and with malafide intention, the impugned order has been passed. Learned counsel for the petitioner contends that even though in the same cadre, there is one more Manager, the respondents, by discrimination, has chosen to transfer the petitioner alone.

8. Per contra, the learned Additional Government Pleader appearing for the respondents would submit that only as per the bye-laws, which the petitioner has agreed to act upon, the transfer order has been passed. Further, he would submit that only due to the shortage of staff and in view of the deepavali season, it became necessary for the respondents to issue transfer order transferring the petitioner from Tiruvannamalai to Chennai. He would also submit that the petitioner was promoted as Manager (Dairying) in the year 2021 and this is the first transfer order issued to the petitioner and therefore, there is no malafide or vindictiveness on the part of the respondents for issuing the impugned order.



W.P.No.17818 of 2022

WEB COPY

9. This Court has given careful consideration to the contents of the respective affidavits and submissions made by the respective counsels and it observes as follows:-

a) Admittedly, special bye-laws of the respondents enables them to issue transfer orders transferring an employee from one place to another. Admittedly, the petitioner has also agreed to abide by the said bye-laws and only thereafter, she was promoted as Manager (Dairying) in the year 2021.

b) Only due to shortage of staff at Chennai, being the place of posting of the petitioner under the impugned transfer order, the respondents have issued the transfer order. Even though, the petitioner claims that it is a vindictive transfer and the transfer order has been issued with malafide intention, there is no proof to show that the respondents, with malafide intention,



W.P.No.17818 of 2022

issued the impugned transfer order.

WEB COPY

c) The petitioner was originally appointed in the year 2016 and was promoted to the post of Manager (Dairying) in the year 2021. Though she may have been transferred earlier on many occasions, she has not challenged those transfers before any court of law. It is an admitted fact that after being promoted as Manager (Dairying) in the year 2021, under the impugned order she has been transferred only for the first time from one place to another though she may have been transferred within the very same office earlier. Due to deepavali season and that too when the respondents are Aavin, where there will be heavy rush of customers during the festival season, the impugned transfer order for administrative exigencies cannot be held to be unjustified.



W.P.No.17818 of 2022

10. Since the reasons given by the respondents for issuing transfer order seems to be a genuine one and that too when the petitioner has not produced any clinching evidence before this Court to show that it is a malafide transfer, this Court has to necessarily accept the contentions of the respondents in this writ petition. Further, the conduct of the petitioner in not going for duty ever since the passing of the impugned order dated 16.06.2022 also disentitles her to seek for stay of the impugned transfer order.

11. Being an administrative transfer and the petitioner having not been able to establish before this Court that it is a punitive transfer made with malafide intention, this Court cannot do a roving enquiry under Article 226 of the Constitution of India as to whether the transfer order is correct or not.

12. For the foregoing reasons, this Court does not find any merit in the writ petition. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

14.10.2022

sr
Index: Yes/No
Speaking Order/Non-Speaking Order



W.P.No.17818 of 2022

WEB COPY

To

1. The Managing Director,
The Tamil Nadu Co-operative Milk Producers' Federation Limited
(TCMPF),
Aavin Illam, Chamiers Road,
Nandanam,
Chennai-600 035.
2. The Joint Managing Director,
Tamil Nadu Co-operative Milk Producers' Federation Limited,
(TCMPF),
Ambattur,
Chennai-600098.
3. The Deputy General Manager (Engg.),
Dairy Cum Power Plant (DCPP),
Tiruvannamalai



WEB COPY



W.P.No.17818 of 2022

ABDUL QUDDHOSE, J

SR

W.P.No.17818 of 2022

14.10.2022