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W.P. No. 8423 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 8423 of 2023

and

W.M.P. No.8612 of 2023

D.Lakshmi

... Petitioner

-VS-

1.The Regional Joint Director of
Collegiate Education, Chennai Region
Anna Salai, IASE Campus, Saidapet
Chennai – 600 015.

2.The Secretary
Guru Nanak Educational Society
Guru Nanak College (Autonomous)
Chennai 600 042.

3.The Principal
Guru Nanak College (Autonomous)
Velachery, Chennai 600 042.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus calling for the entire records connected with the impugned order in GNC/A3/NTS/2023 dated 14.02.2023 by the 2nd respondent and quash the same and consequently direct the 2nd respondent to retain the petitioner in the post of Junior Assistant 2 at least for the period of forthcoming 2 years by considering the petitioner's health condition.



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For Petitioner : Mr.Sathiachandran
for Mr.C.Rajaguru

For Respondents : Mr.S.Rajesh
Government Advocate (for R1)

Mr.Karthick Seshadri (R2 and R3)

ORDER

Heard Mr. Sathiachandran, Learned Counsel for the Petitioner, Mr. S.Rajesh, Learned Government Advocate, Learned Government Advocate appearing for the First Respondent and Mr. Karthick Seshadri, Learned Counsel for the Second and Third Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, who is working as Lab Assistant in the College of the Third Respondent has been transferred from Physics Department to the Chemistry Department by the Office Order No. GNC/A3/NTS/2023 dated 14.02.2023, which is impugned in this Writ Petition.

3. The legal position relating to the scope of interference of the Court on transfers in public employment under Article 226 of the Constitution is well



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settled as reflected in the following extracts from the rulings of the Hon'ble

Supreme Court of India:-

(i) ***Mrs. Shilpi Bose -vs- State of Bihar*** [(1992) SCC (L&S) 127]:

“ In our opinion, the Courts should not interfere with transfer orders which are made in public interest and for administrative reason unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A Government servant holding a transferable post has no vested right to remain posted at a place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order, instead the affected party should approach the higher authorities in the Department. If the Courts continue to interfere with day to day transfer orders passed by the Government and its subordinate authorities, there will be complete chaos in the Administration which would not be



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conducive to public interest.”

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(ii) ***Union of India -vs- S.L.Abbas*** [(1994) SCC (L&S) 230]:

“ Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by mala fides or is made in violation of any statutory provisions the Court cannot interfere with it. While ordering the transfer, there is no doubt, the authority must keep in mind the guidelines issued by the Government on the subject. Similarly, if a person makes any representation with respect to his transfer, the appropriate authority must consider the same having regard to the exigencies of administration. The guidelines say that as far as possible, husband and wife must be posted at the same place. The said guideline however, does not confer upon the Government employee a legally enforceable right.”

(iii) ***State of Punjab -vs- Joginder Singh Dhatt*** [(1994) SCC (L&S) 230]:



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“ This Court has time and again expressed its disapproval of the Courts below interfering with the order of transfer of a public servant from one place to another. It is entirely for the employer to decide when, where and what point of time a public servant is to be transferred from his present posting. Ordinarily the Courts have no jurisdiction to interfere with the order of transfer. The High Court grossly erred in quashing the order of transfer of the respondent from Hoshiarpur to Sangrur. The High Court was not justified in extending its jurisdiction under Article 226 of the Constitution of India in a matter where, on the face of it, no injustice was caused.”

(iv) ***Abani Kanta Ray -vs- State of Orissa*** [(1996) SCC (L&S) 175]:

“ It is settled law that a transfer which is an incident of service is not to be interfered with by the Courts unless it is shown to be clearly vitiated by mala fides or infraction of any professed norm or principle governing the transfer.”

Having due regard to the aforesaid dictum laid down in the binding decisions, in



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the absence of *malafides* or violations of statutory provisions, it is not possible

for this Court to entertain this Writ Petition challenging the order of transfer.

However, it is incumbent upon the concerned authorities to examine the representation that may be made by the Petitioner to re-consider the order of transfer with reference to applicable guidelines for transfer issued by the Government of Tamil Nadu and after affording an opportunity of personal hearing to her, pass reasoned order dealing with each of the contentions raised on merits and in accordance with law expeditiously and in any event, within a period of 15 days from the date of receipt of its copy.

4. In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

28.03.2023

kst

Index: Yes/No

Note: Issue order copy by 26.07.2023

To

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Collegiate Education, Chennai Region
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P.D. AUDIKESAVALU, J.

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