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W.P. No. 11934 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2023

CORAM

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

**W.P. No. 11934 of 2023
and
W.M.P. No. 11815 of 2023**

G.Vishlakshmi

... Petitioner

-VS-

1. Joint Director
Stationary and Printing Department Commissionerate
Annasalai, Chennai – 600002.

2. Deputy Manager (Pre-Print)
Government Central Press
Chennai – 600001.

3. Assistant Director (Administration)
Annasalai, Chennai.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, to call for the records of the First Respondent in its proceeding in Commissionerate.Se.Mu.Aa. No.C2/37490/2022, dated 05.04.2023 and quash the same.

For Petitioner : Mr. S.Kumaraswamy

For Respondents : Mr. S.Rajesh
Government Advocate



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ORDER

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Heard Mr. S.Kumaraswamy, Learned Counsel for the Petitioner and Mr. S.Rajesh, Learned Government Advocate, who takes notice for the Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, who is working as Compositor in Government Central Press, has been transferred from Government Central Press, Chennai to Government Branch Press, Virudhachalam by proceedings in Commissionerate.Se.Mu.Aa.No.C2/37490/2022 dated 05.04.2023 issued by the Second Respondent, which is impeached 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 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



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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 conducive to public interest.”

(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



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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]:

“ 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



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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, the circumstances that the disciplinary proceedings are pending against the Petitioner cannot be treated as an impediment for the concerned authority to transfer the Petitioner from one Depot to another. Insofar as the allegations of *mala fides* is concerned, it is not possible to accept the contention of the Petitioner that the impugned order of transfer was punitive in nature merely because he was involved in incident that had taken place while on duty on 17.03.2023 in front of the shop of the Sixth Respondent.



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4. When the aforesaid legal position was pointed out, Learned Counsel for the Petitioner seeks permission of the Court to withdraw the Writ Petition reserving the right of the Petitioner to make representation to the concerned authority to re-consider the order of transfer and he has made an endorsement to that effect in the court record.



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19.04.2023

Maya

Index: Yes/No

Note: Issue order copy by 31.07.2023.

To

1. Joint Director
Stationary and Printing Department Commissionerate
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2. Deputy Manager (Pre-Print)
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P.D. AUDIKESAVALU, J.

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