BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.11.2023

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THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).Nos.27303 & 27304 of 2023
and
W.M.P(MD)Nos.23436,23437,23445 & 23446 of 2023

W.P(MD)No.27303 of 2023):

A.Angela ... Petitioner

Vs.

1.The Principal Secretary to Government for
Commercial Taxes Department,
Secretariat,
St. George Fort,
Chennai-600 009.

2.The Commissioner,
Office of the Commercial Taxes Department,
Elizhagam,
Chepauk,
Chennai-600 005.

3.The Joint Commissioner (Administration),
Office of the Principal Secretary / Commissioner to
Commercial Taxes Department,
Elizhagam,
Chepauk,
Chennai-600 005.

4.The Joint Commissioner (ST),
Madurai Division,
CT Complex,
Dr.Thangaraj Salai,
Madurai-625 020.

5.The Deputy Commissioner (ST) (East) Office,
CT Complex,
Dr.Thangaraj Salai,
Madurai-625 020. ... Respondents

W.P(MD)No.27304 of 2023):

P.Govindammal ... Petitioner

Vs.

1.The Principal Secretary to Government for
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Secretariat,
St. George Fort,
Chennai-600 009.

2.The Commissioner,
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Chepauk,
Chennai-600 005.

3.The Joint Commissioner (Administration),
Office of the Principal Secretary / Commissioner to
Commercial Taxes Department,
Elizhagam,
Chepauk,
Chennai-600 005.

4.The Joint Commissioner (ST),
Madurai Division,
CT Complex,
Dr.Thangaraj Salai,
Madurai-625 020.

5.The Deputy Commissioner (ST) (East) Office,
CT Complex,
Dr.Thangaraj Salai,
Madurai-625 020. ... Respondents

Common Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records in relating to proceedings in Proc.No.H3/02-17/63/2023-I, dated 17.10.2023 passed by the 3rd respondent and to quash the same.

For Petitioners : Mr.R.Anandha Raj

For Respondents : Mr.J.Ashok
Additional Government Pleader

COMMON ORDER

The present writ petitions have been filed by Typists, who were working in the Commercial Tax Department of Madurai Division challenging the order of transfer, dated 17.10.2023 issued by the third respondent herein.

2. According to the learned Counsel appearing for the writ petitioner, the petitioners have been transferred in the month of October 2023, which is a non-transferrable period and the same is in violation of G.O(Ms)No.10 of the Personnel and Administrative Reforms (Per. S) Department, dated 07.01.1994. The learned Counsel appearing for the petitioner has further contended that the seniority of the Typist is determined in their parent Division and transferring them to another Division would not only affect their seniority, but also their promotion. He further pointed out that the juniors in the said Division have not been transferred and the seniors have been chosen for transferring them to a different Division.

3. The learned Additional Government Pleader appearing for the respondents has contended that in the Madurai as well as in the Trichy Division, only the juniormost Typists have been transferred on the ground that they are in excess in the said Division. He further pointed out that the seniority would be maintained as per their parent Division and therefore, their promotional opportunities would not be affected. The learned Additional Government Pleader appearing for the respondents had further contended that the transfer has been effected only on the ground that new Commercial Tax

Districts Co-terminus with each Revenue District was announced in G.O(Ms)No.42 of the Commercial Taxes and Registration (A2) Department, dated 06.04.2023. In view of the introduction of new Commercial Tax Districts, the petitioners herein, who are juniormost in the said Division have become surplus and due to vacancies in the other Division and have been transferred on administrative grounds.

4. I have carefully considered the submissions made on either side and perused the materials available on record.

5. As far as the grievance of the writ petitioners that their seniority and promotion would be affected, if they are transferred to another Division is concerned, that has been addressed in Clause 3 of the impugned order itself, wherein it is stated that their seniority would be maintained in their respective parent Division. Apart from that, it has been specifically pointed out by the learned Additional Government Pleader that the seniority of the writ petitioners would be maintained in the parent Division and their promotion would not be affected.

6. The learned Additional Government Pleader appearing for the respondents have produced the seniority list of the Typists in Madurai as well as Trichy Division to point out the writ petitioners are the juniormost persons in the said Division and therefore, the contention of the learned Counsel appearing for the writ petitioner that juniors in the said Division have been left out is not legally sustainable.

7. Coming to the residuary argument that they have been transferred during the non-transferrable period, the learned Counsel for the petitioner had relied upon G.O(Ms)No.10, dated 07.01.1994. As per annexure - 1 (III), if the transfers are affected due to surplus man power, the same would be an exemption to the non-transferrable period. In the present case, even as per the impugned order, the petitioners', who are the juniormost Typists in their concerned Division have been transferred only on the ground that they are in excess in their respective Divisions. Therefore, the transfer of the petitioners is falling within the exemptions as per G.O(Ms)No.10, dated 07.01.1994. Since, the transfer being administrative in nature, this Court is not inclined to interfere with the order of transfer.

8. The learned Counsel appearing for the petitioner pointed out that most of the Typists are women staff and they would be put to great prejudice, if they are transferred to Divisions, which are far away from their parent Division. In case, if any request is made by the concerned individuals for re-transferring them, either to the parent Division or to any nearer Division, the same shall be considered sympathetically by the concerned authorities.

9. With the above said observation, both the writ petitions stand disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

16.11.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes

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To

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R.VIJAYAKUMAR, J.

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