



WEB COPY



W.P.No.34603 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

W.P.No.34603 of 2023

Achutha Gomathi

... Petitioner

Vs.

- 1.The Union of India,
Rep by its Director General (Pers),
HQ MES, E-in Cs Branch,
Integrated HQ of MOD (Army),
Kashmir House, Rajai Marg,
New Delhi – 110 011.
- 2.The Director General Married Accn Project,
E-in C's Branch,
Integrated HQ of MOD (Army),
Kashmir House, Rajai Marg,
New Delhi – 110 011.
- 3.The Chief Engineer,
Head Quarters, Southern Command,
Pune – 411 001.
- 4.The Central Administrative Tribunal,
Chennai Bench Rep. By its Registrar,
High Court Complex, Chennai.

... Respondents



W.P.No.34603 of 2023

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, calling for the records of the 4th respondent viz. the central Administrative Tribunal Chennai Bench in OA No. 420 / 2023 dated 30.11.2023 confirming the order passed by the 3rd respondent in No. 132402 / Sur- Defi 2022 / JE (Civ) / 08 / EIB (S) / A1 (a) dated 15.10.2022 and the consequential order in No. 132402 / Sur - Defi 2022 / JE (Civ) / 23 / EIB (S) / A1 (a) dated 30.12.2022 and quash the same

For Petitioner	: Mr.V.Vijayashankar
For Respondents	: Mr.Ar.L.Sundaresan, (for R1 – 4) Additional Solicitor General of India asst. by Mr.C.Kulanthaivel, Senior Panel Counsel Tribunal (R4)

ORDER

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

Under assail is the order of the Central Administrative Tribunal dated 30.11.2023 passed in O.A.No.420 of 2023.

2. The Writ Petitioner filed Original Application challenging the order of transfer dated 08.08.2022 transferring the petitioner from MAP Chennai to GE Deolali, CE Pune zone. The transfer and posting was issued routinely on administrative grounds. The petitioner submitted a representation to re-consider the posting order and made a request to transfer her to a place nearby to



W.P.No.34603 of 2023

Chennai. It was recommended by the Station Officer and the Head Quarters, Chief Engineer, Southern command, considered the request application and issued an order in Proceedings dated 18.10.2022 retaining the petitioner at GE (CTL) Pune, instead of GE Deolali. Not satisfied with the consideration given by the Authorities, she made another representation to post her nearby Chennai. The said representation was rejected, on the ground that the original transfer order was issued on organizational requirement and individual aspirations do not coincide. It is stated that the organizational interest and requirement will be a paramount. In view of the said rejection order, Original Application came to be instituted before the Central Administrative Tribunal by the petitioner, challenging the original transfer order along with the subsequent orders. The Tribunal considered the issues elaborately and dismissed the Original Application, which provided cause for institution of the present Writ Proceedings under Article 226 of the Constitution of India.

3. Mr.V.Vijayashankar, the learned counsel for the petitioner would mainly contend that, the petitioner is a female employee. She has two children aged about 8 years and 5 years respectively. Her husband is employed in Neyveli Lignite Corporation. The distance between Chennai and Pune is about 1500 kms. Vacancies are available at Wellington Nilgiri District, Tamil Nadu



W.P.No.34603 of 2023

and in other establishments in the State of Tamil Nadu. Petitioner is willing to go and join in any of the establishments in the State of Tamil Nadu and her case is to be considered based on her family circumstances.

4. Mr.AR.L.Sundaresan, the learned Additional Solicitor General of India would strenuously oppose by stating that, even after passing of the Original transfer order dated 08.08.2022, the petitioner has been allowed to continue in the same post at Chennai, pursuant to the interim order passed by the Tribunal and the High Court. Already more than 2 years she was allowed to serve at Chennai. The petitioner herself exercised choice of station, when the transfer proposals were made. As per the choice stations, the petitioner had given three choice stations and they are,

- (i) Wellington
- (ii) Suryalanka
- (iii) Pune.

When three options are given by the employee, and the petitioner being Group C Officer, now she cannot turn around and contend that her transfer order is to be recalled and she must be posted in any one of the available vacancies in and around Chennai. Initially she was posted to Deolali and based on her request, the Authorities reconsidered and posted her to Pune City. That



W.P.No.34603 of 2023

itself is a concession shown by the respondents. Therefore, the Tribunal has rightly rejected the Original Application.

5. Learned Additional Solicitor General of India would contend that organizational interest is of paramount importance and mere availability of vacancies under any of the establishments in the State of Tamil Nadu would not confer right to the petitioner to claim the said post. The Administration has to decide the requirements in a particular establishment and take a decision to transfer employees from one station to other. Therefore, the grounds raised by the petitioner that vacancies are available in and around Chennai, cannot be a ground to consider the present Writ Proceedings.

6. We have considered the arguments as advanced between the learned counsel for the petitioner and the learned Additional Solicitor General of India.

7. The case on hand is an administrative transfer issued based on organizational interest. Perusal of the initial transfer order reveals that, batch of officers were transferred including the petitioner. Administrative transfers are issued for efficient public administration. Transfer cannot be claimed as an



W.P.No.34603 of 2023

absolute right by an employee. Transfer is an incidence and conditions of

service. Power of transfer vest with the competent authorities of the Department

Courts need not interfere with such powers of transfer to be exercised by the competent authorities in public interest and in the interest of the administration.

Importantly, Courts cannot run or interfere with the public administration in a routine manner. However, a Writ against a transfer can be entertained, only if such transfer order has been issued by an incompetent authority having no jurisdiction or allegation of malafides are raised. Even in case, allegation of malafide is raised, the Authorities against whom such an allegation is raised, must be impleaded as party respondent in his/her personal capacity. Therefore, exercise of powers of judicial review against an order of transfer is limited to an extent as stated above. Routine administrative transfer would not provide cause for an employee to institute a petition before the Courts. Post or place can never be the choice of an employee. Transfer guidelines are concessions and cannot be construed as right. Such guidelines are meant to regulate the transfer and postings, but would not fall under the purview of service conditions. Thus, it is a unenforceable before the Court of law.

8. However, transfer applications are filed before Tribunal and before the High Court, mainly on personal grounds. No doubt every family may have



W.P.No.34603 of 2023

one or other difficulty in one way or other. However, such personal grievances of the employees may be considered by the competent authority and certainly not by the Courts. Any misplaced sympathy or extra legal considerations in the matter of transfers, would result in interfering with the administrative affairs of the Department, which is not desirable and would derail the normal functioning of the Department.

9. The Competent Authorities alone are empowered to post an employee based on various administration requirements and other factors. Such requirements or factors cannot be assessed by the Courts and that is the reason why the Constitutional Courts, time and again reiterated that the Courts are not expected to interfere with the administrative transfers in the Department.

10. In the present case, the petitioner has given three options at the initial stage, more specifically, before issuing the transfer order dated 08.08.2022. The three choices offered by the petitioner are Wellington, Suryalanka and Pune. Though she was initially transferred to Deolali, her request was considered and the Authorities reposted her to Pune city. That itself is a concession extended to the employee.

11. The petitioner continued in the present station even after transfer,



W.P.No.34603 of 2023

only under the cover of an interim order for more than two years. If at all the petitioner wishes to redress her grievances any further, she has to approach the competent authority by way of representation and it is for of the competent authority to consider or reject it in the interest of public administration.

12. With the above observations, the order impugned passed by the Central Administrative Tribunal in OA No. 420 of 2023 dated 30.11.2023 is confirmed. Consequently, the Writ Petition stands dismissed. No costs. The Connected Miscellaneous Petitions, if any, are closed.

[S.M.S., J.]

[M.J.R., J.]

21.11.2024

Index: Yes/No

Speaking/Non-speaking order

gd



W.P.No.34603 of 2023

To

1. The Union of India,
Rep by its Director General (Pers),
HQ MES, E-in Cs Branch,
Integrated HQ of MOD (Army),
Kashmir House, Rajai Marg,
New Delhi – 110 011.
2. The Director General Married Accn Project,
E-in C's Branch,
Integrated HQ of MOD (Army),
Kashmir House, Rajai Marg,
New Delhi – 110 011.
3. The Chief Engineer,
Head Quarters, Southern Command,
Pune – 411 001.
4. The Central Administrative Tribunal,
Chennai Bench Rep. By its Registrar,
High Court Complex, Chennai.



WEB COPY



W.P.No.34603 of 2023

S.M.SUBRAMANIAM, J.
AND
M.JOTHIRAMAN, J.

gd

W.P.No.34603 of 2023

21.11.2024