



WP.(MD).No.29011 of 2023

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**Dated : 14.03.2024**

**CORAM:**

**THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD)No.29011 of 2023**

**and**

**W.M.P.(MD)Nos.25058 and 25059 of 2023 and 1619 of 2024**

A.Roselin

... Petitioner

**Vs.**

- 1.The Secretary to Government,  
Health and Family Welfare Department,  
Fort St.George, Chennai – 600 009.
- 2.The Director,  
Medical and Rural Health Services,  
D.M.S. Campus, Teynampath,  
Chennai – 600 006.
- 3.The Director,  
Medical Education and Research,  
Kilpauk, Chennai -10.
- 4.The Commissioner,  
Indian Medicine and Homoeopathy,  
Arumbakkam, Chennai – 106.
- 5.The Dean/Principal,  
Government Ayurveda Medical College & Hospital,  
Kottar, Nagercoil,  
Kanyakumari District.
- 6.The Dean/Principal,  
Government Medical College & Hospital,



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Nagapattinam,  
Nagapattinam District.

7.J.Thangalisa

... Respondents

**PRAYER :** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the impugned order of relieving and transfer issued by the 5<sup>th</sup> respondent in R.NO.6090/E/2023 dated 24.11.2023 received on 01.12.2023 and quash the same.

For Petitioner : Mr.Karthikeya Venkatachalapathy  
For Mrs.D.Geetha  
For Respondents 1 to 6 : Mr.P.Veera Kathiravan  
Additional Advocate General  
Assisted by  
Mr.C.Baskaran  
Government Advocate  
For 7<sup>th</sup> Respondent : Mr.R.K.Gandhi

### **ORDER**

This Writ Petition has been filed for issuance of a Writ of Certiorari, to quash the impugned order of relieving and transfer issued by the 5<sup>th</sup> respondent in R.NO.6090/E/2023 dated 24.11.2023 received on 01.12.2023.

2.The petitioner is working as a Staff Nurse at Government Ayurvedic Medical College Hospital, Kottar, Nagercoil. She was recruited and appointed as a Staff Nurse in the year 2015 and was posted at Primary Health Centre, Malliyakarai Block, Salem



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District after appointment. After being posted to various places, vide proceedings of the second respondent dated 31.08.2021, she was posted at Government Medical College and Hospital, Nagapattinam District through the transfer counseling held from 25.08.2021 to 27.08.2021. She has been working at Government Medical College and Hospital, Nagapattinam since 2021 for the past two years. Thereafter, she was posted to Government Ayurvedic College and Hospital, Kottar, Nagercoil from Government Medical College and Hospital, Nagapattinam District, on administrative reasons by the second respondent vide proceedings dated 05.09.2023. The relieving order was issued by the sixth respondent vide proceedings dated 11.10.2023. On being relieved, she duly joined duty at Government Ayurvedic College and Hospital, Kottar, Nagercoil on 18.10.2023 where she has been rendering service under the supervision of the fifth respondent. While so, within a period of 1½ months, the impugned relieving and transfer order vide proceedings of the fifth respondent dated 24.11.2023 transferring and posting her to Government Medical College and Hospital, Nagapattinam, came to be issued through Whatsapp on 01.12.2023. Challenging the same, this Writ Petition came to be filed.



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3.The learned counsel for the petitioner submitted that the impugned order of transfer is malafide and punitive in nature and the same has been issued within two months from her posting at Government Ayurvedic College and Hospital, Kottar, Nagercoil. On enquiry, the petitioner came to know that the seventh respondent was transferred and posted to the Government Medical College and Hospital, Thiruvarur District by the second respondent vide proceedings dated 18.08.2023 and posting order dated 07.09.2023. The transfer order was posted on mutual grounds and the seventh respondent had voluntarily made consent to transfer to Government Medical College Hospital, Thiruvarur from Government Ayurvedic College and Hospital, Kottar, Nagercoil. While so, the seventh respondent has filed Writ Petition in W.P. (MD)No.30525 of 2023 before this Court challenging the order dated 05.01.2023 by the second respondent. Though no interim order was passed in the said Writ Petition, the fifth respondent has passed the impugned order pursuant to the direction of the second respondent vide proceedings dated 23.11.2023 whereby the second respondent had modified the transfer order and retaining the seventh respondent in the petitioner's place on extraneous



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consideration.

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4.The learned counsel for the petitioner further submitted that the petitioner's daughter is studying 10<sup>th</sup> standard at Nagercoil. Her husband being a fisherman, it is only the petitioner who is taking care of her age old mother in law who is suffering from several ailments. The petitioner has served at Government Medical College and Hospital, Nagapattinam about two years and only on her request, she was transferred back to Nagercoil and now only to accommodate the seventh respondent, the impugned transfer order came to be passed reposting her again in Nagapattinam. which is 470 km away from her present working place. Hence, he pressed for allowing the Writ Petition.

5.Per contra the second respondent has filed a counter and the learned Additional Advocate General appearing for the respondents submitted that the writ petitioner was serving as a Staff Nurse at Government Medical College and Hospital, Nagapattinam whereas the seventh respondent was originally serving as a Staff Nurse at Government Ayurvedic College and Hospital, Kottar, Nagercoil. The writ petitioner had manipulated



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and forged the consent letter of the seventh respondent for mutual transfer and had given the letter for mutual transfer I.e. the writ petitioner to be transferred from Government Medical College and Hospital, Nagapattinam to Government Ayurvedic College and Hospital, Kottar, Nagercoil and the seventh respondent to be transferred from Government Ayurvedic College and Hospital, Kottar, Nagercoil to Government Medical College and Hospital, Nagapattinam.

6.He further contended that the writ petitioner has forged mutual consent letter by forging the signature of the seventh respondent illegally for achieving mutual transfer. Without knowing that the mutual transfer letter given by the writ petitioner as forged one, based on the request for mutual transfer, the second respondent vide proceedings dated 05.09.2023 transferred the petitioner from Government Medical College and Hospital, Nagapattinam to Government Ayurvedic College and Hospital, Kottar, Nagercoil and the seventh respondent was transferred from Government Ayurvedic College and Hospital, Kottar, Nagercoil to Government Medical College and Hospital, Thiruvavarur. Subsequent to the said mutual transfer order vide proceedings dated



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05.09.2023, thereafter, the proceedings in favour of the seventh respondent was cancelled by the proceedings dated 05.09.2023. Challenging the same, the seventh respondent filed W.P.(MD)No. 30525 of 2023 before the Principal Bench of this Court. Pursuant to the same, the respondents modified the transfer order issued to the seventh respondent vide order dated 23.11.2023 retaining her at Government Ayurvedic College and Hospital, Kottar, Nagercoil, Kanyakumari District and recording the same, the said Writ Petition was closed.

7. Consequent to the order passed in W.P.(MD)No.30525 of 2023 dated 23.11.2023 vide proceedings dated 23.11.2023, the seventh respondent was transferred to Government Ayurvedic College and Hospital, Kottar, Nagercoil and the seventh respondent joined directly on 24.11.2023. As per the earlier proceedings dated 05.09.2023, the petitioner had joined at Government Ayurvedic College and Hospital, Kottar, Nagercoil on 18.10.2023 and thereafter, she was on week off duty on 24.11.2023, on which date, the fifth respondent was deemed to have been relieved the petitioner and the seventh respondent was permitted to join at Government Ayurvedic College and Hospital, Kottar, Nagercoil.



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Both the petitioner and the seventh respondent were called for enquiry at Office of the Director of Medical and Rural Health Services, Chennai vide proceedings dated 29.12.2023 to verify the genuinty of application based on which mutual transfer was issued but the petitioner did not appear for the enquiry scheduled on 02.01.2024, since the petitioner forged the signature of the seventh respondent as if the seventh respondent have given mutual transfer request.

8.The law is settled that the fraud vitiates all solemn acts. Time and again, this Court has held so in various case. In the case of ***S.P.Chengalvaraya Naidu (Dead) by Lrs. v. Jagannath (Dead) by Lrs and Others*** reported in ***(1994) 1 SCC 1***, ***Ganpatbhai Mahijibhai Solanki v. State of Gujarat and Ors.*** reported in ***(2008) 3 SCC 556***, ***Raju Ramsing Vasave v. Mahesh Deorao Bhivapurkar and Ors.,*** reported in ***(2008) 9 SCC 54***, it is held that fraud and justice never dwell together. Since the petitioner has played fraud on the entire transfer process, necessarily the Writ Petition should fail and pressed for dismissal of the Writ Petition.



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9. Heard the learned Counsel appearing for the petitioner, the learned Additional Advocate General appearing for the respondents 1 to 6, the learned counsel appearing for the 7<sup>th</sup> respondent and anxiously perused the entire materials available on record.

10. The respondents have placed before me the requisition of the petitioner seeking transfer from Government Medical College and Hospital, Nagapattinam to Government Ayurvedic College and Hospital, Kottar, Nagercoil. Yet another requisition made by the seventh respondent requesting transfer from Government Ayurvedic College and Hospital, Kottar, Nagercoil to Government Medical College and Hospital, Thiruvarur. Placing reliance upon the same, the learned Additional Advocate General emphatically submitted that the petitioner has played fraud by manipulating the consent letter of seventh respondent for mutual transfer. A request for mutual transfer between two persons would be to get transferred mutually from the destinations where they are working respectively. However, in the instant case, the petitioner was working at Government Medical College and Hospital, Nagapattinam whereas the seventh respondent had been working



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at Government Ayurvedic College and Hospital, Kottar, Nagercoil.

Hence, the contention of the learned Additional Advocate General that the petitioner had sought for mutual transfer has narrated in para no.5 of the second respondent's counter affidavit and later on the basis of such request, the seventh respondent was transferred to Government Medical College and Hospital, Thiruvavur and that the petitioner was transferred to Government Ayurvedic College and Hospital, Kottar, Nagercoil as narrated in para no.7 of the counter affidavit of the second respondent would prove self contradictory.

11.The learned counsel for the petitioner has placed before me the mutual transfer and posting order, which has been issued by the Director of Medical and Rural Health Service on 18.08.2023 with respect to the seventh respondent and Tmt.T.B.Darlin Suba. The said mutual transfer and posting order would reveal that on 18.08.2023 on administrative reasons, Tmt.D.B.Darlin Suba has been transferred from Government Medical College and Hospital, Tiruvavur from Government Ayurvedic College and Hospital, Kottar, Nagercoil vice Tmt.J.Thangalisa I.e. the seventh respondent has been transferred from Government Ayurvedic College and Hospital,



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Kottar, Nagercoil to Government Medical College Hospital, Tiruvarur. It is pertinent to mention here that the said order in its note portion has made clear that both of them were not eligible for transfer and travelling allowance. Hence, it can be fairly presumed that the said mutual transfer and posting order came to be issued through mutual request.

12.In the meanwhile, the transfer order and posting order of the petitioner came to be issued by the Director of Medical and Rural Health, the second respondent vide order dated 31.08.2021 from Government Nilgiris Medical College and Hospital, Ooty to Government Medical College and Hospital, Nagapattinam. Following which, having issued a mutual transfer and posting order in favour of Tmt.T.B.Darlin Suba vice Tmt.J.Thangalisa I.e, the seven respondent dated 18.08.2023 and once again on 05.09.2023, the second respondent had issued another transfer and posting order of the seventh respondent transferring her from Government Ayurvedic College and Hospital, Kottar, Nagercoil to Government Medical College and Hospital, Tiruvarur. Thereafter, on the same day i.e. on 05.09.2023, the second respondent issued a transfer and posting order in favour of the petitioner from Government Medical



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College and Hospital, Nagapattinam to Government Ayurvedic College and Hospital, Kottar, Nagercoil.

13.Challenging the transfer and posting order dated 05.09.2023, issued to the seventh respondent, the seventh respondent has filed W.P.(MD)No.30525 of 2023. Pursuant to the said Writ Petition, on the submission of the respondents before this Court that the respondents by order dated 23.11.2023 have modified the transfer order and have retained the seventh respondent at Government Ayurvedic College and Hospital, Kottar, Nagercoil, the said Writ Petition came to be closed by this Court on 23.11.2023. However, consequent to the order on the same day I.e., 23.11.2023, the seventh respondent was transferred to Government Ayurvedic College and Hospital, Kottar, Nagercoil from Government Medical College and Hospital, Tiruvarur. However, in the meanwhile, the petitioner had already joined the Government Ayurvedic College and Hospital, Kottar, Nagercoil on 18.10.2023. But when she was on week off duty on 20.04.2023, the fifth respondent permitted the seventh respondent to join the Government Ayurvedic College and Hospital, Kottar, Nagercoil and following which, on 24.11.2023, the fifth respondent issued the



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impugned relieving order relieving the petitioner from her duties with effect from 24.11.2023 afternoon in pursuance to the modification order dated 23.11.2023 in favour of the seventh respondent. Challenging the said relieving order, this Writ Petition came to be filed.

14.Wild allegations has made by the learned Additional Advocate General without explaining the contradictions in the counter affidavit in para nos.5 and 7, in which the second respondent has submitted that the writ petitioner has forged the consent letter of the seventh respondent for mutual transfer from Government Ayurvedic College and Hospital, Kottar, Nagercoil to Government Medical College and Hospital, Nagapattinam. The learned Additional Advocate General failed to explain the manner in which, the third respondent on accepting the said letter had issued transfer orders transferring the seventh respondent to Government Medical College and Hospital, Tiruvarur.

15.That apart the learned Additional Advocate General conspicuously failed to explain why a mutual transfer and posting order dated 18.08.2023 was issued by the third respondent



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between one Tmt.D.B.Darlin Suba and Tmt.J.Thangalisa, the seventh respondent transferring them mutually from Government Medical College and Hospital, Tiruvarur from Government Ayurvedic College and Hospital, Kottar, Nagercoil. The learned Additional Advocate General also failed to explain having issued a mutual transfer and posting order dated 18.08.2023 to Tmt.D.B.Darlin Suba and seventh respondent, why the third respondent issued yet another transfer and posting order to the seventh respondent on 05.09.2023 once again to the same Government Medical College and Hospital, Tiruvarur from Government Ayurvedic College and Hospital, Kottar, Nagercoil. The transfer and posting order of the petitioner dated 05.09.2023 issued by the third respondent is certainly not a mutual transfer order.

16.It is crystal clear that only pursuant to the seventh respondent having approached this Court by filing W.P.(MD)No. 30525 of 2023 , in a hurry burry manner having reported before this Court that the transfer order issued to the seventh respondent has been modified, the third respondent proceeded to issue modification order dated 23.11.2023 retaining the seventh



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respondent in Government Ayurvedic College and Hospital, Kottar, Nagercoil. As a consequence to the same, the impugned relieving order dated 24.11.2023 relieving the petitioner from Government Ayurvedic College and Hospital, Kottar, Nagercoil came to be issued by the fifth respondent. The entire sequence of various transfer orders commencing from mutual transfer in favour of Tmt.D.B.Darlin Suba dated 18.08.2023 to the impugned relieving order dated 24.11.2023 which is challenged by the petitioner herein, would reveal the irregularities committed by the third respondent in effecting the various transfers between the petitioner, seventh respondent and Tmt.D.B.Darlin Suba.

17.Only to hide the indiscrepancies in the entire exercise effected by the third respondent in favour of the petitioner, the seventh respondent and Tmt.D.B.Darlin Suba, the second respondent had filed a counter affidavit, which is self contradictory making a wild allegations that the petitioner has forged a consent letter of the seventh respondent for mutual transfer. However, a careful perusal of the aforesaid letter placed before me is certainly not a request for mutual transfer. This is a clear case whether the petitioner has been victimised for the irregularities of the second



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respondent and has been axed back to the Government Medical College and Hospital, Nagapattinam.

18.In view of the same, the impugned order of relieving and transfer issued by the fifth respondent dated 24.11.2023 which was received by the petitioner on 01.12.2023 is hereby quashed and the third respondent is directed to accommodate the petitioner in any available vacancy within the district of Kanyakumari within a period of four weeks from the date of receipt of copy of this order.

19.Accordingly, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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



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To

- 1.The Secretary to Government,  
Health and Family Welfare Department,  
Fort St.George, Chennai – 600 009.
- 2.The Director,  
Medical and Rural Health Services,  
D.M.S. Campus, Teynampath,  
Chennai – 600 006.
- 3.The Director,  
Medical Education and Research,  
Kilpauk, Chennai -10.
- 4.The Commissioner,  
Indian Medicine and Homoeopathy,  
Arumbakkam, Chennai – 106.
- 5.The Dean/Principal,  
Government Ayurveda Medical College & Hospital,  
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- 6.The Dean/Principal,  
Government Medical College & Hospital,  
Nagapattinam,  
Nagapattinam District.



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**L.VICTORIA GOWRI, J.**

Mrn

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