IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2025
Coram

THE HON'BLE MR JUSTICE C.V.KARTHIKEYAN

W.P.No.1529 of 2024

V.Divyabharathi ... Petitioner

-Versus-

1.Principal Secretary to Government,
Commercial Taxes and Registration,
Secretariat, Fort St. George,
Chennai – 09.

2.The Commissioner of Commercial Taxes,
Ezhilagam,
Chennai – 06.

3.The Joint Commissioner (ST),
Chennai (North) Division,
5th Floor, No.32,
Integrated Commercial Taxes Building,
Elephant Gate Bridge Road,
Chennai – 03.

4.The Joint Commissioner (ST) (FAC),
Salem Division,
Salem. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking Writ of Mandamus directing the first respondent to consider the representation of the petitioner dated 15.05.2023.

For Petitioner : *Ms. Rukmani Venugopalan*

For Respondents : *Ms.K.Vasanthamala*
Government Advocate (Taxes)

ORDER

The writ petition has been filed in the nature of a Mandamus seeking a direction against the first respondent to consider the representation made by the petitioner dated 15.05.2023.

2.In the affidavit filed in support of the writ petition, it had been stated that the petitioner, who had been selected to the post of Junior Assistant/Typist/Steno-Typist Grade III on the basis of the results of Group IV Services Examination held in the year 2013 – 2014, had been posted to the Commercial Taxes (South) Division Department, Chennai during the counselling held on 05.04.2014. Thereafter, the petitioner was appointed as Junior Assistant. The petitioner joined duty on 07.07.2014. Her service was also regularised. The petitioner was then promoted as Assistant by proceedings dated 28.06.2018.

3.The petitioner sought inter-divisional transfer to Salem in the year 2019. A one way transfer order was also issued by proceedings dated

13.02.2020 subject to certain conditions. Then the petitioner gave a representation seeking restoration of seniority. One of the conditions under which the petitioner was transferred to Salem was that she should forego her seniority.

4. I must place on record my appreciation for the fact that Ms.Rukmani Venugopalan, learned counsel for the petitioner had very fairly brought to the notice of this court, the judgement passed by the Madurai Bench of Madras High Court in *W.P(MD).Nos.4, 22, 615 of 2020, The Principal Secretary/Commissioner of Commercial taxes and another v. D.Murugesan and others*, wherein the Division Bench held that when there is a one way transfer from one administrative unit to another administrative unit on the basis of the request, the individual cannot claim seniority.

5. The observation of the Division Bench has been given in paragraph 34 which as follows:

> *"A perusal of Rule 20 further reveals that there is no provision for a one way transfer from one administrative unit to another administrative unit on the basis of request. Hence, if such an interpretation is given to Rule 20, the petitioners could not even be transferred from one division*

to another division. Though a request has been made by the petitioners, the authorities considered their request sympathetically and treated it as an administrative transfer. Hence, the writ petitioners were called upon to issue a certificate that they are ready to forego their seniority, when they are transferred to a different division. Only after such an undertaking was given by the writ petitioners, their cases were referred for concurrence to TNPSC. Therefore, though it is not a case of mutual transfer, the request transfer falls within the category of administrative necessity and therefore certainly the petitioners have to forego their seniority. The fact that the petitioners have not challenged the non-granting of travelling allowance which they have foregone as contemplated under Rule 20 would clearly indicate that the petitioners also treated the transfer only as on administrative necessity. Therefore, we are not inclined to accept the interpretation of the Writ Court that the transfer is not covered under Rule 20(a)(iii) of Tamil Nadu Ministerial Service Rules."

6. On the side of the third respondent also, it is contended that the request of the petitioner cannot be granted by the respondents herein.

7. The petitioner should be satisfied that she is now posted in Salem where her husband is also employed. She must therefore devote her attention to

discharging her official duties.

8. The Writ Petition is dismissed. No costs.

14.02.2025

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Index : Yes/No
Speaking order/Non speaking order
Neutral Citation : Yes/No

To

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C.V.KARTHIKEYAN, J.

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