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W.P.Nos.1395, 1398 and 1400 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 16.07.2025

PRONOUNCED ON: 20.08.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

**W.P.Nos.1395, 1398 and 1400 of 2025
and W.M.P.Nos.1639, 1641 and 1642 of 2025**

The Management of
M/s.Soundarya Decorators Private Limited,
Rep by its Director,
Mr.D.Sathyamurthy,
S/o.K.Durai,
Plot No.26, Porur Village,
Kolathur Post,
Keelkottaiyur,
Chennai 600 127

... Petitioner in all W.Ps

-VS

V.Johnpaul	...Respondent in W.P.No.1395 of 2025
A.Raja	...Respondent in W.P.No.1398 of 2025
R.Selvam	...Respondent in W.P.No.1400 of 2025

Prayer in W.P.No.1395 of 2025: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the impugned Award dated 28.02.2024 made in I.D.No.156/2019 on the file of the Presiding Officer, Labour Court, Kancheepuram and quash the same.



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Prayer in W.P.No.1398 of 2025: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the impugned Award dated 28.02.2024 made in I.D.No.157/2019 on the file of the Presiding Officer, Labour Court, Kancheepuram and quash the same.

Prayer in W.P.No.1400 of 2025: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the impugned Award dated 28.02.2024 made in I.D.No.155/2019 on the file of the Presiding Officer, Labour Court, Kancheepuram and quash the same.

For Petitioner : Mr.P.Dinesh Kumar
in all W.Ps

For Respondent : Mr.S.Kumaraswamy
in all W.Ps

COMMON ORDER

The above writ petitions have been preferred by the Management challenging the order passed by the Labour Court, Kancheepuram in and by which the orders of dismissal passed against the respondents in these writ petitions have been set aside and they have been directed to be reinstated with continuity of service, back wages and other attendant benefits.



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2. Since the arguments are common with reference to these writ petitions, a common order is being passed. The facts in respect of these writ petitions are separately set out herein below:

3. **W.P.No.1395 of 2025** has been filed challenging the Award dated 28.02.2024 made in I.D.No.156 of 2019 .

(i) The respondent had joined the petitioner-Company on 05.06.2001 as a Carpenter. He had also joined the Union titled “Chengai Anna Mavatta Jananayaga Thozhilalar Sangam” and had participated in the dispute relating to the issue of employment orders to the employees. Since the demand of the Union was not adhered to, a dispute has been raised with the Conciliation Officer on 26.07.2016. Therefore, to wreck vengeance against the respondent for being an active member of the Union, the petitioner-Company had issued a transfer order. Since he had not reported at the transferred place, he was suspended on 24.01.2018. Concerning the illegal suspension order, the respondent had raised a dispute with the Conciliation Officer on 30.01.2018. While the same was pending, the petitioner-Company had conducted a domestic enquiry and proceeded *ex-parte*



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against the respondent. He was illegally terminated from services on 28.03.2018. Challenging this termination order, the petitioner had raised an industrial dispute on 20.11.2018 contending that the termination order was in violation of Section 33(2)(b) of the Industrial Disputes Act. Since no consensus was arrived at during the conciliation proceedings, the Conciliation Officer had issued a Failure Report dated 04.02.2019. Ultimately, the Conciliation had failed and the matter was referred before the Labour Court, Kancheepuram in I.D.No.156 of 2019.

(ii) The petitioner-Management had filed a counter in which it was stated that the respondent had been issued with the transfer order only for a period of 3 months. Despite the order being for a specified period, the respondent had, in sheer disobedience, chosen not to join at the transferred place. This constrained the petitioner to initiate disciplinary proceedings and therefore, after following due process by affording sufficient opportunities, the domestic enquiry was proceeded with and the Enquiry Officer had filed a report stating that the charges against the respondent stood proved. Once again, the



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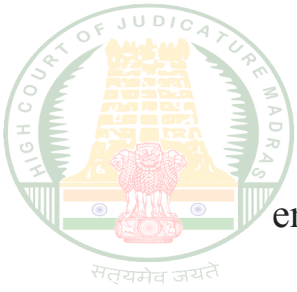
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petitioner Company had sought an explanation on the report and thereafter terminated his services on 28.03.2018.

(iii) It is the contention of the petitioner-Company that when the termination order was passed, no industrial dispute concerning the suspension order or the transfer order was pending. The respondent was not terminated for wrecking vengeance for being an active member of the trade Union, but it was only on account of his disobedience of the transfer order. Therefore, the petitioner-Company would submit that no exception could be taken to the enquiry report and therefore, the industrial dispute deserves to be dismissed.

4. **W.P.No.1398 of 2025** has been filed challenging the order passed by the Labour Court, Kancheepuram in I.D.No.157 of 2009.

It is the case of the respondent that he was engaged as a Carpenter in the petitioner-Company on 21.10.2011 and that he had joined the Union called “Chengai Anna Mavatta Jananayaga Thozhilalar Sangam”. After becoming a Member of this Association, they had made a demand that the petitioner-Company should issue



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employment orders to all the employees. Since the request was not considered, a dispute was raised with the Conciliation Officer on 26.07.2016. Therefore, to wreck vengeance against the respondent for being an active member of the Union, the petitioner-Company had issued the transfer order. Since the respondent had demanded travel allowance and food allowance in view of the transfer order, he was illegally suspended from services on 03.02.2018. Concerning this illegal suspension, the respondent had raised a dispute before the Conciliation Officer on 30.01.2018. When the dispute was pending on the file of the Conciliation Officer, the petitioner had proceeded to conduct a domestic enquiry and had proceeded *ex-parte* against the respondent and by order dated 28.03.2018 he was illegally terminated from service and a monthly salary was remitted to him. The respondent would contend that the domestic enquiry has been proceeded with without obtaining the approval of the Conciliation Officer, before whom the industrial dispute relating to the transfer order was pending and therefore, the issuance of the termination order was *per se* bad. Challenging this termination, the respondent had raised an Industrial dispute on 20.11.2018 stating that the termination



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was in violation of Section 33(2)(b) of the Industrial Disputes Act.

No consensus was arrived at during the conciliation proceedings and therefore, the Conciliation Officer had issued a Failure Report dated 04.02.2019. Thereafter, the respondent had proceeded to file the claim before the Labour Court, Kancheepuam in I.D.No.157 of 2019, questioning the illegal termination. The petitioner management has raised the same defense as in the case of I.D.No:156 of 2019.

5. W.P.No.1400 of 2025 has been filed challenging the Award dated 28.02.2024 made in I.D.No.155 of 2019.

The respondent had joined the petitioner-Company on 15.06.2002 as a Carpenter. He had also joined the Union title “Chengai Anna Mavatta Jananayaga Thozhilalar Sangam” and had participated in the dispute relating to the issue of employment orders to the employees. Since the demand of the Union was not adhered to, a dispute has been raised with the Conciliation Officer on 26.07.2016. Therefore, to wreck vengeance against the respondent for actively participating in the activities of the Union, the petitioner-Company had issued a transfer order. Since the respondent had demanded travel



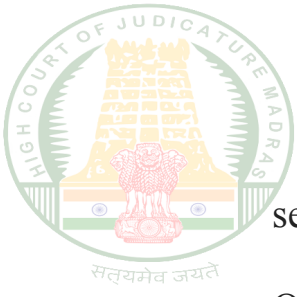
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allowance and food allowance in view of the transfer order, he was illegally suspended from services on 09.02.2018. Thereafter, the respondent had raised a dispute with the Conciliation Officer on 30.01.2018. While the same was pending, the petitioner-Company had proceeded to conduct a domestic enquiry *ex-parte* and had terminated the respondent from service on 28.03.2018. In this writ petition also a defence that has been taken is that the termination order was in violation of Section 33(2)(b) of the Industrial Disputes Act. Ultimately, the Conciliation had failed and the matter was referred for adjudication to the Labour Court, Kancheepuram in I.D.No.157 of 2019.

6. The petitioner-Management had taken the very same defence in I.D.Nos.157 and 155 of 2019 as in the case of I.D.No.156 of 2019.

7. The petitioner would submit that the Presiding Officer of the Labour Court vide the impugned order dated 28.02.2024 in I.D.Nos.156, 157 and 155 of 2019 has erroneously set aside the termination order and ordered reinstatement with continuity of



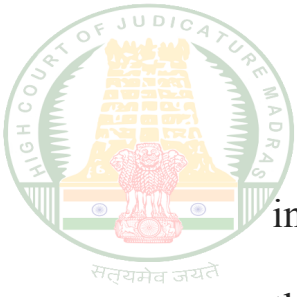
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service, back wages and other attendant benefits. The Presiding Officer has passed the Awards on the sole ground that the transfer was illegal since the petitioner-Management originally had adopted the Model Standing Orders, which did not provide for any transfer. Therefore, the clause incorporating the power of transfer in the appointment letter which was later was illegal and unjustifiable. The transfer orders issued were therefore illegal and accordingly, the termination orders were set aside.

8. The grounds on which the petitioner-Management challenges the award passed in these writ petitions are similar.

The petitioner would submit that the observation of the Labour Court that the petitioner-Management could not insert clauses relating to the transfer in the appointment letter without the same being available under the Model Standing Orders is incorrect. The Labour Court had failed to appreciate that the standing orders are only general guidelines available to the industrial concern regarding conditions of employment. The absence of a clause for transfer in the Model Standing Orders does not preclude the petitioner-Management from



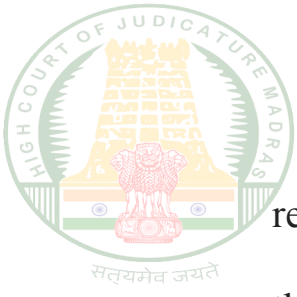
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incorporating the same in the appointment letter, as it is well within the prerogative of the industrial concern to incorporate such clauses in addition to the Model Standing Orders. It is also the case of the petitioner-Management that there is no industrial dispute questioning the incorporation of the transfer clause in the appointment order and the present industrial dispute is concerned only with respect to the termination of the respondents on the basis of the disciplinary proceedings.

9. Originally when the matter had come up for hearing, the petitioner-Management had made an offer stating that they are ready to reinstate the workmen without back wages or to treat the back wages as compensation. The workman, in turn, put forward a counteroffer that they are ready to accept the reinstatement with reduced back wages. Ultimately, the settlement had not worked out and the matter was argued by the counsels.

10.Mr.P.Dinesh Kumar, learned counsel for the petitioner-Management would submit that, as per the appointment orders of the

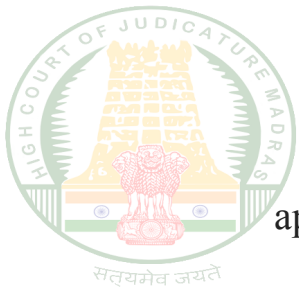


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respondents, they had been informed that transfer was an incident of their employment, which is evident from clause 5 of their appointment orders. That apart, clause 3 of the appointment orders stipulates that the terms of the Industrial Standing orders would also form part of the terms of employment.

11. The learned counsel for the petitioner would further submit that, as per the Tamil Nadu Industrial Employment (Standing Orders) Rules 1947(hereinafter called “the Standing Orders Rules, 1947”), the Model Standing Orders were provided and Rule 3(1) therein directs that the industrial establishment to send five copies of the draft standing orders in both English and Tamil language, which the employer proposes to adopt in the industrial establishment, to the Certifying officer, along with the required number of spare copies to the trade Union in the establishment. The Model Standing orders have been set out in Schedule I and II of the Standing Orders Rules, 1947, which are applicable to all categories of workmen in an industrial establishment. The Model Standing Orders in Schedule-I apply to workmen. He would further contend that the terms of the



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appointment letter are not in conflict with the Standing Orders, considering the fact that under the schedule to the Industrial Employment Standing Orders Act, 1946, (in short, the Standing Orders Act) an establishment has been permitted to provide for matters other than that which have been set out in Clauses 1 to 10 in the schedule. He would therefore contend that even if the standing orders do not provide for transfer, the letter of appointment clearly stipulates that a transfer can be effected and this would fall under clause 11 of the schedule. In support of his argument, he would rely upon the Hon'ble Supreme Court reported in **(1999) 1 SCC 300 [Cipla Ltd. Vs Jayakumar R. and Another]** with particular reference to paragraphs 9, 10 and 12.

“9. It was vehemently controverted by the learned Counsel for the respondent that notwithstanding the aforesaid Clause-3 in the letter of appointment the position in law is that if there is any clause which is in conflict with the Standing Orders then the Standing Orders must prevail. It was submitted that Clause 11 of the letter of appointment clearly stipulated that the Standing



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Orders would be applicable. The learned Counsel drew our attention to the relevant clause in the Standing Orders which reads as follows:

A workman may be transferred from one department to another, or from one Section to another or from one shift to another within factory/Agricultural Research Farm, provided such transfers do not involve a reduction in his emoluments and grade. Worker who refuses such transfers are liable to be discharged.

10. It was while placing reliance on it that it was submitted that when the Standing Orders talk of transfer it permits a transfer only in terms of the said clause and transfer dehors this is not permissible.

.....

12. In our opinion, the aforesaid construction does not flow from the provisions of the Standing Orders when read along with the letter of appointment and, therefore, the conclusion arrived at by the High Court was not correct. As has already been noticed the letter of appointment contains both the terms namely for the respondent being



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transferable from Bangalore as well as with regard to the applicability of the Standing Orders. These clauses, namely, Clauses 3 and 11 have to be read along with the Standing Orders, the relevant portion of which has been quoted hereinabove. Reading the three together we do not find that there is any conflict as has been sought to be canvassed by the learned Counsel for the respondent. Whereas the Standing Orders provide for the department wherein a workman may be asked to work within the establishment itself at Bangalore, Clause 3 of the letter of appointment, on the other hand, gives the right to the appellant to transfer a workman from the establishment at Bangalore to any other establishment of the company in India. Therefore, as long as the respondent was serving at Bangalore he could be transferred from one department to another only in accordance with the provisions of the Standing Orders but the Standing Orders do not in any way refer to or prohibit the transfer of a workman from one establishment of the appellant to another. There is thus no conflict between the said clauses.

This judgement has been relied upon by the Hon'ble Supreme Court in



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another Judgement reported in **2024 SCC OnLine SC 366 [Divgi**

Metal Wares Ltd. Vs Divgi Metal Wares Employees Association and

Another] where the learned Judges have held that, in view of the law

laid down in the case of **CIPLA**, the transfer cannot be held to be

invalid. The learned Judges have taken note of the fact that where

clauses in the letter of appointment were not in conflict with the

standing orders, then it cannot be stated that a transfer would be

invalid. In the instant case, the letter of appointment clearly provides

for transfer and this is not in conflict with the standing orders.

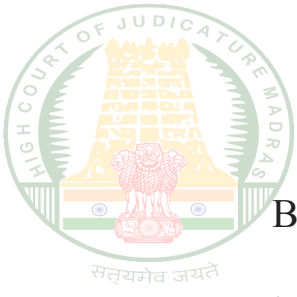
12. The learned counsel for the petitioner would rely upon a common judgement of the Hon'ble Supreme Court reported in **(2023) 18 SCC 461 [Union of India and others Vs K. Suri Babu]** where the question that engaged the attention of the Court was whether disciplinary proceedings could be initiated under the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (hereinafter called "CCA Rules, 1965") or it could be done only under the Standing orders certified for NFC, Hyderabad on 27.08.1973. The learned Judges was considering the argument of the workmen that



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they were covered only by the standing orders and therefore, proceedings initiated under the CCA Rules, 1965 were without jurisdiction. On the other hand, the Management would argue that the workmen were governed by the CCA Rules, 1965 as employees of NFC, Hyderabad and one of the stipulations in the appointment order was that they would be governed by the CCA Rules even for disciplinary proceedings. Ultimately, the Bench had observed that the CCA Rules were general Rules which would apply to all government servants, whereas the standing orders clearly laid down the procedures to be followed in the case of disciplinary proceedings. Therefore, once the standing orders provided the procedure, there was no reason to initiate proceedings under the CCA Rules. The learned counsel would submit that in the instant case, the standing orders do not make any provision for transfer, except for mentioning in the schedule that other matters not prescribed in the list given to the schedule could be provided in the standing orders. Therefore, he would submit that the transfer effected was very much in order. He would further submit that the respondent in W.P.No.1395 of 2025 was transferred to Delhi and the respondent in W.P.No.1398 of 2025 to

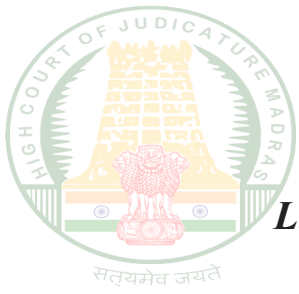


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Bangalore and the respondent in W.P.No.1400 of 2025 was transferred within Chennai.

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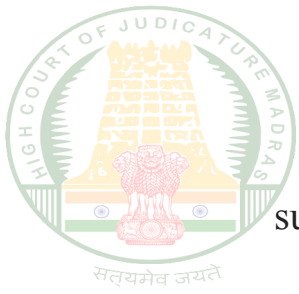
13. Mr.Kumarasamy, learned counsel appearing appearing for the workmen would submit that on the date of the original appointment, it was the Model Standing Orders that were in force and the appointment letter had come into existence 16 years thereafter, as evident from the date on the appointment letter, which is dated 03.07.2017. The respondent in W.P.No.1395 of 2025 had joined the services of the petitioner on 05.06.2001, the respondent in W.P.No.1398 of 2025 had joined on 21.10.2011 and the respondent in W.P.No.1400 of 2025 on 15.06.2002. Therefore, when these respondents were appointed, there was no appointment letter and it is the Model Standing Orders that was prevalent. He would submit that when a new condition is sought to be introduced, even as per the Standing Orders Act, the same has to be done in the manner contemplated under Section 15 therein. In this regard, he would rely upon the judgement reported in **1999-1-LLJ 490 [Indian Express Employees Union, Kaloor, Cochin Vs Indian Express (Madurai)]**



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Ltd. and another] where the Kerala High Court was considering a challenge to Standing Order No.16 of the 1st respondent therein, which was certified on 23.06.1978. This clause provided for the transfer of workmen inter-departmentally or to any of the offices or branches of the subsidiary concern managed by the company. The Union had challenged this standing order and sought for a deletion stating that it was against the provisions of the Standing Orders Act, 1946 and the Rules framed therein. The learned Judge after considering the various provisions, ultimately observed that item No.11 in the schedule to the Standing Orders Act does not make provision for including anything in the standing orders unless it is a matter prescribed by the State Government and included in the Model Standing Orders. Ultimately, the Court directed the Certifying Officer to re-consider the issue of declaring Standing Order No.16 as null and void afresh in the light of the findings of the judgement. The learned counsel would further submit that the judgement in CIPLA did not deal with the Model Standing Orders nor Item 11 of the schedule. That apart, the judgement of the constitution bench was not considered in the case of CIPLA Limited. The learned counsel would



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submit that it is not open to the Industrial Establishment themselves to add any matter to their standing orders or appointment letter and any addition can only be made as per the procedure prescribed under Section 15 of the Standing Orders Act. That apart, he would submit that since there was no condition of transfer at the time of appointment, there is a legitimate expectation on the part of the workmen that they would not be transferred from the place of work where they had been appointed. In this regard, he would rely upon the judgement of this Court reported in **1993-2-LLN 682 [India Cements, Ltd., Tirunelveli Vs Labour Court, Madurai, and others]** The Union had submitted a proposal to the Certifying Officer under Section 10(2) of the Standing Orders Act seeking a modification of the Standing Orders 10 and 12(b) where Standing Order 10 related to wages and 12(b) related to transfers. The Certifying Officer had declined to accept and accede to the request of the 3rd respondent therein to amend the certified standing orders. The Union had preferred an appeal before the appellate authority under Section 6 of the Act. The Appellate Authority allowed the appeal in respect of Standing Orders No.10 and with reference to Standing Order No.12(b) observed that a



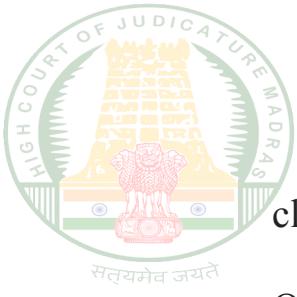
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part of the same dealt with matters falling outside the scope of the Act and accordingly ordered the deletion of the words “transfer from one department or section to another or from their works to their units under the Manager or the Head Officer vice versa”. Challenging the same, the Management had filed the writ petition. The learned Judge, relying upon the judgement of the Hon'ble Supreme Court reported in ***1965 SCC OnLine SC 75 [Rohtak and Hissar Districts Electric Supply Co. Ltd. & Anr. Vs State of Uttar Pradesh and Other]***, held that the certifying Officer had no jurisdiction to approve any order which was not included in any one of the items of schedule to the Standing Orders Act. Therefore, he would submit that the inclusion of Clause 5 of the appointment order was without jurisdiction. In the case on hand, on the date of the appointment of the respondents, it was only the standing orders that was in force.

14. Heard the learned counsels on either side and perused the materials available on record.

15. The issue for the consideration of this court is whether the



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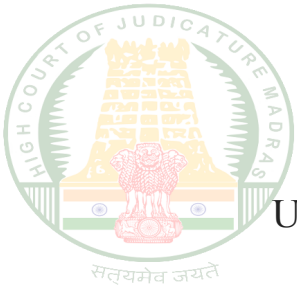
clause in the appointment order is in conflict with the Model Standing Orders.

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16. The Clause-5 of the appointment order would read as follows:

“தாங்கள் பணிநியமனம் தற்சமய பதவிக்கு ஏற்க
நிறுவனத்தின் வேறு எந்த இடத்திற்கும் பணிமாற்றம்
செய்வதற்குட்பட்டது.”

17. To appreciate the above, it is necessary to briefly examine the sequence of events preceding the appointment letter. The respondents in the three writ petitions have been appointed in the year 2001, 2011 and 2002 respectively. Admittedly, on the date of their appointment, they had not been issued appointment orders and it was only the Model Standing Orders that were in force. It appears that in and around the year 2015-2016, the Union in which the respondents were members namely, “Chengai Anna Mavatta Jananayaga Thozhilalar Singam” had made a demand that the employment orders be issued to the employees. Since the request was not adhered to, the



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Union had raised a dispute before the Conciliation Officer on 26.07.2016. Thereafter, the orders of transfer have been issued to the respondents while the dispute was pending conciliation between the workmen and the petitioner-Management. This is clearly a change in the conditions of service of the workmen and no notice prior to effecting this change has been given to the respondents. It is also seen that the appointment orders have been issued when the matter was pending conciliation and no approval of the conciliation Officer has been obtained. Even as per the appointment order Clause 3 stipulates that the Model Standing Orders under the Standing Orders Rules, 1947 would be applicable. The Model Standing Orders prescribed under the Standing Orders Rules do not provide for transfers. However, the petitioner-Management has introduced a clause relating to transfer in the appointment order by taking recourse to Item 11 of the Schedule to the Standing Orders Act.

18. The Hon'ble Supreme Court, in the five bench judgement reported in **1965 SCC OnLine SC 75 cited supra**, was considering the validity of certain orders passed by the Certifying Authorities in



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respect of the draft standing orders submitted by the petitioner-Management for certification. The Management was aggrieved by the fact that the Certifying Officer had made changes in the draft standing orders despite the fact that the representatives of the employees who had then not formed a Union had given their consent. The Hon'ble Supreme Court had observed as follows:

“10. The second aspect of the matter which is relevant on this point is that the Standing Orders have to cover the matters specified in the Schedule attached to the Act. Item 11 in the said Schedule refers to any other matter which may be prescribed. We have already mentioned the fact that s. 15 confers power on the appropriate Government to make rules. Section 15 (2) (a) provides that the appropriate Government may, by rules, prescribe additional matters to be included in the Schedule, and the procedure to be followed in modifying Standing Orders certified under this Act in accordance with any

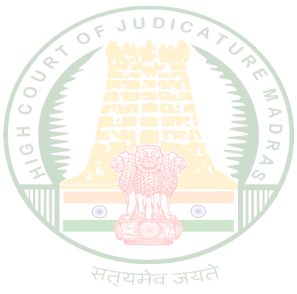


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such addition. Thus there can be no doubt that the Act contemplates that the Standing Orders must cover matters initially included in the Schedule as well as matters which may be added to the Schedule by the appropriate Government in exercise of the authority conferred on it by s. 15. In fact, by virtue of this power, the U.P. Government has added several items to the list contained in the Schedule; they are 8A-issue of service certificate; 9A--censure and warning notice; 11 A-issue of wage slips; II B-introduction of welfare schemes such as provident fund, gratuity etc.; and 11C--age of superannuation or retirement, rate of pension or any other facility which the employers may like to extend, or may be agreed upon between the parties. We will have occasion to deal with item 11C later. The position, therefore, is that in the State of U.P. Standing Orders have to cover the



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items originally included in the Schedule as well as the items which have been subsequently added thereto.

The Bench had also gone on to observe that the Standing Orders relating to transfer had been rejected by the Certifying Authority, as they did not fall under any of the items in the schedule. The Bench had observed as follows in Paragraph No.15.

“15. Then in regard to the matters which may be covered by the Standing Orders, it is not possible to accept the argument that the draft Standing Orders can relate to matters outside the Schedule. Take, for instance, the case of some of the draft Standing Orders which the appellant wanted to introduce; these had reference to the liability of the employees for transfer from one branch to another and from one job to another at the discretion of the management. These two Standing Orders were included in the draft of the appellant as Nos. 10 and 11. These two provisions



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do not appear to fall under any of the items in the Schedule; and so, the certifying authorities were quite justified in not including them in the certified Standing Orders.”

Therefore, the learned Judges had given their stamp of approval for the non-inclusion of transfer in the draft standing orders submitted by the management since “transfer” was not an item found in the schedule to the Standing Orders Act. This judgement was followed by this Court in the decision reported in **1993-2-LLN-682** cited supra wherein the request of the Union for modifying two standing orders one relating to transfer had been turned down by the Certifying Officer and was deleted by the appellate authority and the Management had challenged the said order by way of writ petitions. The learned Judge, relying upon the judgement in **1966-2-LLJ 330** cited supra, observed as follows in paragraph No.4.

"4. Considering the aforesaid rival contentions of the parties and considering the law



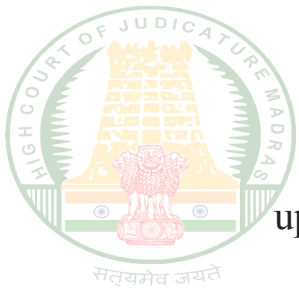
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laid down by the Supreme Court, I am of the view that the Certifying Officer has no jurisdiction whatever for approval of any of the orders which does not include in any one of the items of the schedule to the Act. While so, it cannot be said that the impugned order in any way suffering from any infirmity. The question of consideration of fairness and reasonableness with reference to the proposal for amendment will arise only with reference to the amendment sought for in relation to any one of the items included in the schedule to the Act.”

A more recent judgement of the Hon'ble Supreme Court reported in **2023-4-LLJ-42-SC [Bharatiya Kamgar Karmachari Mahasangh VS M/s. Jet Airways Ltd.]** had dealt with the issue as to whether a private agreement / settlement between the parties could override the standing orders. The Bench observed that the certified standing orders have statutory force and therefore an employer and a workman cannot enter into a contract that overrides the statutory terms embodied in the certifying standing orders. The learned Judges relied



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upon two earlier judgements of the Hon'ble Supreme Court and went on to hold as follows in paragraph No16.

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“17. A cumulative reading of aforesaid clauses reveals that a workman who has worked for 240 days in an establishment would be entitled to be made permanent, and no contract/settlement which abridges such a right can be agreed upon, let alone be binding. The Act being the beneficial legislation provides that any agreement/contract/settlement wherein the rights of the employees are waived off would not override the Standing Orders.”

Therefore, a perusal of the aforesaid judgments clearly sets out the management cannot introduce a condition of service which is not stipulated in the schedule to the Standing Orders Act and even if they propose to do so, it can only be in the manner as prescribed under the Act and the Rules. The petitioner Management in the instant case has introduced the clause for transfer in the appointment letter. Since the Model Standing Orders do not include transfer, the said clause has to necessarily be declared as null and void. The Labour Court has



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rightly considered these judgments and position of law to hold the dismissal as illegal and ordered reinstatement with continuity of service, back wages as well as the attendant benefits. Further, the timing of the transfer also reflects its *malafides*. After the Union, of which respondents were members, had initiated conciliation proceedings the Management had rushed to issue the appointment orders including the clause for transfer and proceeded to transfer the workmen. The Kerala High Court in a judgment reported in **(1978) 2 LLN 235 [P.Pushpakaran Vs Chairman, Coir Board And Another]** had dealt with the transfer of an employee for 45 days from Kerala to Bombay and held the transfer to be *malafide*. While discussing the same, the learned Judge has observed in paragraph 24 as follows:

“24. The right to transfer an employee is a powerful weapon in the hands of the employer. Sometimes it is more dangerous than other punishments. Recent history bears testimony to this. It may, at times, bear the mask of innocuousness. What is extensible in a transfer order may not be the real object. Behind the mask



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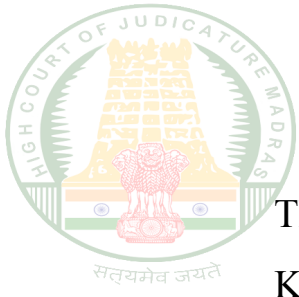
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of innocence may hide sweet revenge, a desire to get rid of an inconvenient employee or to keep at bay an activist or a stormy petrel. When the Court is alerted, the Court has necessarily to tear the veil of deceptive innocuousness and see what exactly motivated the transfer. This Court can and should, in cases where it is satisfied that the real object of transfer is not what is apparent, examine what exactly was behind the transfer.”

Therefore, considering the sequence in which the transfer has taken place in the instant case this Court comes to the conclusion that the transfer is a *malafide* one and not backed by legal authority. Accordingly, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

20.08.2025

Index: Yes/No
Speaking order/non-speaking order
Neutral Citation: Yes/No
srn
To



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The Presiding Officer, Labour Court,
Kancheepuram

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P.T.ASHA, J.,

srn

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and W.M.P.Nos.1639, 1641 and 1642 of 2025**

20.08.2025