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W.A No. 1247 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-03-2025

CORAM

THE HONOURABLE MR JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.A No.1247 of 2023 and
CMP NO. 12516 OF 2023

Dr.S.Vaheetha Ghousia
D/o.Syed Shajahan, No.63, Government
College Quarters Opp. Muhamathiya Shadhi
Mahal, Ooty - 2.

... Appellant

Vs

1. The Principal Secretary To Government
Department of Higher Education, Fort St.
George, Chennai- 600 009.

2.The Director of Collegiate Education
Directorate of Collegiate Education, DPI
Compound College Road, Chennai 600 006.

3.The Principal
Government Arts College, Udhamandalam,
Nilagiri District.

4.M.Easwaramurthy
S/o.H.Mahalingam, Full Additional charge as
the director of Collegiate Education and The
Principal, Government Arts College, Ooty,
Udhamandalam, Nilagiri District.

... Respondents

PRAYER

Writ Appeal under Clause 15 of Letters Patent to set aside the order made in WP
No. 11625 of 2023 dated 26.04.2023 and allow the writ appeal.



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For Appellant : Mr.S.Sathia Chandran

For Respondents : Mr.D.Ravichander
Special Government Pleader

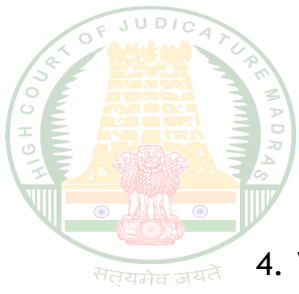
JUDGMENT

(Judgment of the Court was delivered by R.Suresh Kumar, J.)

This Writ Appeal has been directed against the order made in WP No. 11625 of 2023 dated 26.04.2023.

2. The appellant was the writ petitioner, who was working as Assistant Professor at the Government Arts and Science College, Udthagamandalam, Nilgiris District. She was brought to the said station only on 24.02.2001. After completion of only two years in the said station, the appellant / writ petitioner was transferred to Thirumangalam Government Arts and Science College at Madurai District by the order of the Director of Collegiate Education dated 31.03.2023. That order was under challenge before the writ Court by filing W.P.No.11625 of 2023.

3. The said writ petition came to be dismissed at the admission stage itself by the order of the Writ Court dated 26.04.2023, where the learned Judge found that due to administrative exigency if any transfer is effected, normally the Courts would not interfere with the same and accordingly the said writ petition was dismissed through the impugned order.



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4. We have heard Mr.S.Sathia Chandran, learned counsel for the appellant, who would submit that, insofar as the transfer of Professors and Assistant Professors working in Government Arts and Science Colleges throughout the State of Tamil Nadu is concerned, certain mandatory guidelines have been issued through G.O.Ms.No.245, Higher Education Department dated 08.11.2022. Along with the said Government Order, guidelines for transfer of college teachers in the academic year 2022-23 has been issued, and as no further Government Order has been issued, the said guidelines issued on 08.11.2022 still holds good.

5. He further submits that, as per the guidelines, especially in Clause No.10 of the guidelines, wherein it has been provided that administrative transfers will be made only when complaints have been inquired into by the competent authority and disciplinary action is proposed to be taken on prima facie evidence. Here in the case in hand, according to the learned counsel for the appellant, though the order of transfer dated 31.03.2023 has been made by stating that it is for administrative reasons, there has been no complaint preceding the administrative transfer, which being one of the conditions for invoking the power to make administrative transfer as per Clause 10 of the guidelines issued along with with G.O.Ms.No.245 dated 08.11.2022, the transfer order is not based on any administrative exigency. Therefore, on that ground the order of transfer dated 31.03.2023 impugned before the Writ Court ought to have been set aside and the writ petition ought to have been allowed. Since this issue has not been considered in proper perspective by the learned Writ Court, while disposing the writ petition through the impugned order, the present intra Court appeal has been preferred.



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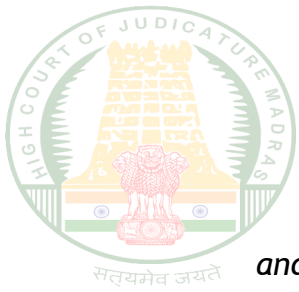
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6. We have heard Mr.D.Ravichander, learned Special Government Pleader, who would submit that there has been a complaint made against another Professor, pursuant to which there was some unrest in the college atmosphere, where statement had been given by the appellant / writ petitioner as a witness and in order to sort out those issues and to bring back normalcy in the college atmosphere, the college administration thought it appropriate to make the transfers, including the appellant / writ petitioner. That is how the transfer had been effected, which is purely based on administrative exigency and not a malafide transfer. Therefore, the order of transfer had to be sustained, which in fact had been sustained by the learned Judge by dismissing the writ petition through the impugned order. Hence, the said order of the learned Writ Court does not require any interference at the hands of this Bench, learned Special Government Pleader contended.

7. We have heard the learned counsel for both sides and have perused the materials placed on record.

8. We have gone through the import of G.O.Ms.No.245, Higher Education Department as well as the guidelines attached with the same. Clause No.10 in the guidelines reads thus:

“ 10. Administrative transfers will be made only when complaints have been inquired into by the Competent Authority



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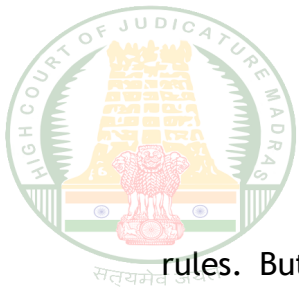
and disciplinary action is proposed to be taken on prima facie evidence. The reasons for the administrative transfer are to be recorded in the relevant file.

- (i) Those transferred on account of administrative grounds will not be eligible for transfer for the next three years.*
- (ii) Those who have obtained transfer orders on request cannot apply for transfer atleast for next two years. The minimum period will not be applicable in case of those who are promoted.”*

9. Therefore, if at all administrative transfers have to be made, it can be made only when complaints have been inquired into by the Competent Authority and disciplinary action is proposed to be taken on prima facie evidence.

10. Here in the case in hand, there has been no complaint or enquiry against the appellant and no proposal has been made to take disciplinary action against the appellant. Merely because an unrest was noticed in the college atmosphere, where some of the Professors have been involved, where some statement has been given by the appellant / writ petitioner, that would not *ipso facto* make the college management to issue transfer order to the appellant / writ petitioner from Udthagamandalam to Madurai, which is a far-off place.

11. Even though law is well settled in this regard that with regard to service conditions, where transfer is one of the essential conditions of service and normally Courts of law would not interfere with transfer matters except for three reasons viz., that the transfer was a malafide transfer or in violation of statutory



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rules. But, at the same time if a transfer order is made without any plausible reason, even before the Court of law at the time of judicial review such orders can not be said to be a valid order.

12. Therefore, insofar as the present transfer order dated 31.03.2023 is concerned, even though it is captioned as administrative transfer, the guidelines issued along with G.O.Ms.No.245 dated 08.11.2022 has not been followed, as there has been no complaint whatsoever against the appellant and there has been no proposal after having found prima facie case against the appellant to initiate disciplinary action.

13. In the absence of these two ingredients, which are mandatory in nature as per the guidelines issued under G.O.Ms.No.245 dated 08.11.2022, that kind of transfer ought not to have been made. Therefore, on that very ground we do feel that the transfer order dated 31.03.2023 has to be interfered with. All these aspects since have not been considered by the writ Court in proper perspective, the order passed by the writ Court is also liable to be interfered with.

14. In result, the writ appeal is allowed and the following orders are passed.

- (a) The impugned order passed by the writ Court dated 26.04.2023 in W.P.No.11625 of 2023 is set aside.
- (b) As a sequel, the transfer order dated 31.03.2023 impugned before the writ Court is also set aside.
- (c) By virtue of the interim order granted by the earlier Division Bench at the admission of this writ appeal, the



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appellant / writ petitioner is continuing in the present station ie., Udhagamandalam, Nilgiris District. She can continue there, but her continuance is subject to the further transfer, if any, proposed by the competent authority by strictly following the mandatory guidelines issued under G.O.Ms.No.245 dated 08.11.2022.

15. With the above directions and observations, the writ appeal is allowed.

No costs. Consequently, connected miscellaneous petition is closed.

(R.SURESH KUMAR J.)

(A.D.MARIA CLETE J.)

25-03-2025

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

KST

To

1.The Principal Secretary To Government
Department of Higher Education, Fort St.
George, chennai- 600 009.

2.The Director of Collegiate Education
Directorate of Collegiate Education, DPI
Compound College Road, Chennai 600
006.

3.The Principal
Government Arts College,
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AND
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