



W.P.No.40125 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2025

CORAM :

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN**

**W.P.No.40125 of 2025
and
W.M.P.Nos.53312 & 45071 of 2025**

1. The Union of India,
Rep. By its Secretary,
Ministry of Electronics and Information Technology,
No.6, CGO Complex, Electronic Niketan,
Lodhi Road, New Delhi – 110 003.
2. The Director General,
Centre for Development of Advance
Computing (C-DAC)
Innovation Park, Panchavati,
Pashan, Pune – 411 008.
3. The Director (HRD)
Corporate Human Resources Development,
Innovation Park, Panchavati, Pashan,
Pune – 411 008.
4. The Centre Head,
Centre for Development of Advance Computing,
Chennai TIDEL Park,
Tharamani, Chennai – 600 113. ... Petitioner

Vs.

1. V.Sridharan,
2. L.R.Prakash,
Senior Director,
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Centre for Development of Advance Computing,
Plot No.20, FC 33, Institutional Area,
Jasola, New Delhi – 110 025.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records from the Central Administrative Tribunal, Chennai dated 20.01.2025 in OA/310/01537/2024 and quash the same as illegal, arbitrary and without jurisdiction.

For Petitioners : Mr.AR.L.Sundaresan,
Addl.Solicitor General of India
assisted by Mr.K.Srinivasa Murthy
Sr.Panel Counsel for Central Govt.

For Respondents : Mr.V.Vijay Shankar
for Ms.V.Kaanchana for R1
No appearance for R2

ORDER

S.M.SUBRAMANIAM,J.

Under assail is the order dated 20.01.2025 passed by the Central Administrative Tribunal, Chennai Bench (hereinafter called as 'CAT') in O.A.No.1537 of 2024. The order of transfer, transferring the 1st respondent from Chennai to Patna vide proceedings dated 21.10.2024 was under challenging in the Original Application before the CAT. Since CAT allowed the Original Application by set aside the order of transfer, the Union of India preferred the present writ petition.



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2. The learned Additional Solicitor General of India Mr.A.RL.Sundaresan, appearing on behalf of the writ petitioners would mainly contend that it is an order of transfer passed in the interest of administration. Order of transfer was passed on account of the reason that the competent authority found that there was a requirement in Patna Centre and the 1st respondent, being a Senior Scientist was transferred for better utilisation of his service at Patna Centre.

3. To assail the impugned order of CAT, the learned Additional Solicitor General of India would contend that relieving an employee on issuance of transfer with immediate effect, cannot be found fault. The CAT considered the said ground which is untenable. On an earlier occasion, the 1st respondent was removed from service based on a disciplinary proceedings and subsequently, reinstated. The said ground is unconnected with the order of an administrative transfer. Not following the seniority list in the matter of transfer, is irrelevant and the CAT considering these grounds, set aside the transfer order and therefore, the present writ petition is to be



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allowed.

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4. Regarding the malafide ground raised by the 1st respondent, the competent authority, Director General has approved the administrative transfer and there is no allegation of malafide against the Director General who approved the transfer order. While approving the administrative transfer, the Director General has clearly observed that,

1. C-DAC Patna, which is currently involved in several critical projects require an experienced hand, preferably at senior level, to assist Centre Head Patna.

2. Shri Sridharan V, Scientist F, Emp.No.100632, whose transfer was put on hold in the last redeployment exercise be transferred to C-DAC Patna in the interest of the organisation with immediate effect.

5. It is contended that the 2nd respondent, the then Director at Chennai Centre had not recommended the name of the 1st respondent for transfer nor forwarded his name for transfer. The approval of transfer is an independent act of the Director General for better administration. Therefore, the CAT has committed an error in setting aside the order of an administrative transfer.



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6. In response, Mr.Vijayshankar, learned counsel appearing on behalf of the 1st respondent would submit that the case on hand is a case of malafide wherein the Senior Scientist has been transferred from Chennai to Patna. There are several instances to establish that friction existed between the respondents 1 and 2. The 1st respondent made several complaints regarding financial irregularities in the Centre at Chennai against the 2nd respondent. He has given sexual harassment complaint also, since the 2nd respondent had involved in making certain obscene statements against the women employees. Internal Complaint Committee constituted conducted enquiry into the complaint made by women employees. Several allegations relating to purchase had been made against the 2nd respondent by the 1st respondent. Being the Senior Scientist in Chennai Centre, he made several representations to the competent authority for initiation of appropriate action. This prompted the 2nd respondent to transfer the 1st respondent. Thus, the transfer order had been issued at the behest of the 2nd respondent. Thus, the CAT rightly considered the ground of malafide against the 2nd respondent.



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7. Regarding, approval of an administrative transfer by the Director General, Mr.Vijayshankar would contend that malice is of two kinds. i.e., malice in fact and malice in law. As far as malice in fact is concerned, it is raised against the 2nd respondent, the then Director General of Chennai Centre. As far as the Director General is concerned, malice in law would apply, since he has not appreciated numerous instances and the complaints made by the 2nd respondent regarding the activities and irregularities of the 2nd respondent at Chennai Centre.

8. In support of his contention, Mr.Vijayshankar relied on two judgments, i.e., *Somesh Tiwari vs. Union of India*¹, paragraph 16, wherein the Apex Court considered the principles regarding malice in fact and malice in law and the Division Bench of Madras High Court, in the case of *Union of India and others vs. M.M.Cholan and others*² considered the judgments of the Hon'ble Apex Court and held that the order of transfer is untenable. In paragraph No.24, the Division Bench of this Court has considered the personal rivalry between two officials, which resulted in

¹ 2009(2) SCC 592

² Manu/TN/9259/2007
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issuance of administrative transfer. The facts in the present case is also similar and therefore, the Writ Petition is to be rejected.

9. This Court has considered the rival submissions made between the parties to the lis on hand.

10. The order of transfer dated 21.10.2024 would show that the 1st respondent was transferred from C-DAC Chennai to C-DAC Patna with immediate effect. Further, it clarifies that the 1st respondent shall be eligible for transfer benefits as applicable as per C-DAC rules. The order of transfer was issued with the approval of the competent authority. There is no reference about any report or forwarding letter of the Director, Chennai. The relieving order dated 21.10.2024 would show that the 1st respondent is directed to report to the Director (Central Head)C-DAC Patna and he may utilise the joining time as applicable.

11. Therefore, the contention that the 1st respondent had been relieved immediately has no relevance. On transfer, an employee may be



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relieved immediately. Time is granted only for joining in the transferred place. Therefore, immediate relieving of an employee on transfer cannot be a ground to set aside the order of transfer. In the present case, the relieving order would show that the 1st respondent is eligible to avail the joining time, enabling him to join at Patna. Therefore, the said ground raised on behalf of the 1st respondent, as considered by the CAT has no relevancy as far as the administrative transfers are concerned.

12. Regarding the departmental disciplinary proceedings and imposition of major penalty on the 1st respondent, the said ground also cannot be considered as an acceptable ground for assailing an order of administrative transfer. Imposing of major penalty in a disciplinary proceedings is one aspect of a matter, issuance of administrative transfer in the interest of public administration is another matter, which cannot be linked nor be relied on, for the purpose of assailing the administrative transfer order.

13. Following the seniority list in the matter of transfer is unheard of.



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Seniority list is prepared, published only for the purpose of promotion.

Therefore, the seniority is nothing to do with the administrative transfers.

Non adherence of seniority in the matter of transfer would not vitiate the order of administrative transfer. Thus, the consideration shown by the CAT in this regard is also perverse.

14. Transfers are incidental to service, more so, conditions of service.

Administrative transfers are issued for better administration. The power of Courts to interfere in administrative transfers are limited. The Courts are not expected to interfere with the routine administration of Government Departments. Therefore, the power of judicial review to interfere with an order of an administration transfer is limited and the said legal position has been reiterated by constitutional Courts, time and again.

15. Regarding the ground raised by the 1st respondent on malice in fact and malice in law, we have carefully gone through the allegations raised by the 1st respondent against the 2nd respondent. No doubt, the 1st respondent has given several complaints regarding certain irregularities against the 2nd respondent, the then Director at Chennai Centre. He has

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given complaint of sexual harassment in support of the women employees in Chennai Centre. It is brought to the notice of this Court that the 2nd respondent subsequently resigned the job in March, 2025 and relieved.

16. Be that as it may, mere giving complaint against certain higher officials or informing about certain irregularities in an institution/department *per se* would not provide a cause for interference in an administrative transfer. Whether such complaints given by an employee had an impact on such administrative transfer or not, is to be considered by the Courts.

17. One of the many grounds challenging the transfer order is malice in fact and malice in law. Malice in fact indicates malafide intention in passing an order of transfer, whereas when it comes to malice in law, the intention is not a focal point but the act itself is considered to be wrongful, lacking in legal justification. Therefore, so far as administrative transfers are concerned, malice in law cannot be taken as a legal ground for challenge, since administrative transfers cannot be pinned as an unlawful act, only when it is coupled with a malafide intention. Can it be tested against the order of administrative transfer, mere passing of a transfer order sans ill-will cannot be construed as being passed without any lawful authority.



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18. When there is a lawful authority to pass an order of transfer, the question of malice in law does not arise. Hence, the transfer orders can be put to test only on the ground of malice in fact and not malice in law.

19. Malice in law can be pressed only if law provides any such right to an employee. Therefore, the ground relating to malice in law would not arise in the present case. Law on transfer is settled and transfer *per se* would not provide a cause for institution of legal proceedings. It is the prerogative of the competent authority to transfer an employee for better administration. Place or status can never be claimed as a matter of right by employees. Therefore, certain guidelines for transfers, in order to develop transparency, would not have a statutory force, nor such guidelines could confer any right to assail the order of administrative transfer. Therefore, the ground relating to malice in law is inapplicable as law does not provide any right to the 1st respondent in the present case.

20. Malice in fact is concerned, as stated above, the 1st respondent sent several complaints against the 2nd respondent to the higher authorities.



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However, perusal of the transfer order, relieving order and the order of approval of transfer by the Director General on 21.10.2024 would show that there is no reference regarding any report submitted by the Director, Chennai or any forwarding recommendation to transfer the 1st respondent by the Director, Chennai.

21. Perusal of the order of approval issued by Director General dated 21.10.2024 would clearly show that the Patna Centre require the service of a senior scientist and the reasons are also stated by the Director General. Therefore, the competent authority has approved the order of transfer only for better administration. Thus, there is no nexus between the approval of transfer order by the competent authority/Director General and the complaints given by the 1st respondent against the 2nd respondent. Even presuming that there is a strained relationship between two officials, the competent authority/higher official is empowered to transfer the employee to maintain conducive atmosphere in the interest of administration.

22. Perusal of the order impugned passed by the CAT would show



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that the Tribunal has gone deep into the administrative affairs of the Centre for Development of Advance Computing and made an attempt to micro manage the administration, which is not in consonance with the established principles of law in the matter of administrative transfers. The Courts are not expected to interfere with the routine administration of the Government Department and the CAT has gone unnecessarily by appreciating these administrative affairs, which would not fall within the realm of powers of judicial review.

23. For all these reasons, the impugned order passed by CAT is set aside. Accordingly, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S.,J.) (C.K.,J.)
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vsi
Speaking/Non-speaking order
Neutral citation



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**S.M.SUBRAMANIAM,J.
and
C.KUMARAPPAN,J.**

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