



WP(MD). No.4403 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.03.2025

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)No.4403 of 2025

and

W.M.P(MD)Nos.3157 & 3158 of 2025

Neelananarayanan

... Petitioner

Vs.

1.The Joint Director,
Tamil Nadu School Education,
Chennai-06.

2.The Chief Educational Officer,
Chief Educational Office,
Thoothukudi District.

3.The District Educational Officer,
District Educational Office,
Thoothukudi District.

4.The Block Educational Officer,
Block Educational Office,
Sathankulam,
Thoothukudi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned order in Na.Ka.No.030246/A3/E3/2024, dated 12.02.2025 of the 1st respondent and quash the same as illegal.



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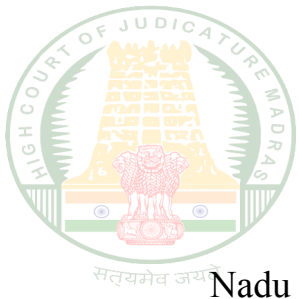
For Petitioner : Mr.A.Arun Prasad

For Respondents : Mr.T.Amjadkhan
Government Advocate

ORDER

This Writ Petition has been filed against the proceedings, dated 12.02.2025 issued by the 1st respondent transferring the petitioner from Sathankulam, Thoothukudi District, to Jolarpettai, Thirupathur District.

2. The case of the petitioner is that he had joined as Junior Assistant in the Chief Educational Office, Kanyakumari District in the year 1996. Thereafter, he was promoted as Assistant and thereafter, as Desk Superintendent. Now, he is working as Superintendent at 4th respondent office with effect from 01.12.2023. During his duties, he came to know that, for some of the teachers, there was wrong fixation of their salaries and as such, there was monetary loss to the Government. He communicated the same to the 3rd and 4th respondents. After enquiry, the 3rd respondent confirmed the same vide letter, dated 11.07.2024 and communicated the same to the 2nd respondent. Aggrieved over his action, some of the teachers in the name of their association, namely 'Tamil



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Nadu Thodakkapalli Aasiriyar Kootani', to give trouble to the petitioner, made a complaint to the higher officials stating that he is not amenable to them. In that regard, the then Chief Educational Officer asked the 4th respondent to conduct an enquiry and submit a report. The 4th respondent submitted his report, dated 11.07.2024 stating that the allegations are false and no women teachers had given complaint against the petitioner. The said report was forwarded to the 2nd respondent. Thereafter no further steps have been taken by the respondents.

3. Now, a new Chief Educational Officer had joined duty before four months. The said association, by using their influence, had given a complaint on the same set of allegations, which were earlier found to be baseless. The complaint was forwarded to the 1st respondent. The 1st respondent without affording proper opportunity to the petitioner, had transferred the petitioner from Sathankulam, Thoothukudi District to Jolarpettai, Thirupathur District by proceedings, dated 12.02.2025. On the same day, the 1st respondent issued show cause notice to the petitioner. Aggrieved by the order of transfer, dated 12.02.2025, this writ petition is filed.



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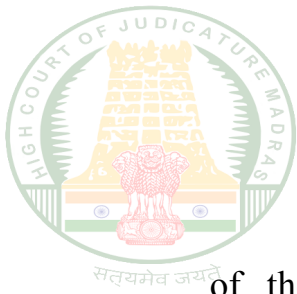
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4. A Counter affidavit has been filed on behalf of the respondents.

Though the counter affidavit filed by the 1st respondent is running into 9 pages with 16 paragraphs, there is no denial on the contentions made by the petitioner in his affidavit filed in support of the writ petition. No reply also furnished to the allegations made by the petitioner against the 1st respondent for issuing the impugned order.

5. The learned counsel for the petitioner contends that the impugned order issued by the 1st respondent is illegal, malafide and the same is liable to be set aside. He further contends that the impugned order is in violation of principles of natural justice, as no opportunity was given to the petitioner before passing the impugned order as a measure of punishment. Without conducting any enquiry or without taking into consideration of the earlier report submitted by the 4th respondent on 11.07.2024, the 1st respondent issued the impugned order which is liable to be set aside.

6. On the other hand, the learned Government Advocate appearing for the respondents basing on the averments in the counter affidavit submits that series of complaints about the conduct and lethargic attitude



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of the writ petitioner herein was received from the Tamil Nadu Elementary Teacher's Federation and in this regard, protest was conducted by the teachers, which caused unnecessary chaos in the administration and therefore, the 1st respondent was forced to issue the impugned order, transferring the petitioner on administrative ground. As such, it cannot be found fault as it was issued with an intention to have smooth administration.

7. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

8. On careful perusal of the materials available on record, it appears that, there is no reply from the 1st respondent for the contention of the petitioner that because he raised the issue of wrong fixation of salary of some of the teachers, which was confirmed by the 3rd respondent in his letter, dated 11.07.2024, due to that reason, some of the teachers in the name of their association, to give trouble to the petitioner, made a false complaint against him

9. The another specific contention of the petitioner is that without



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considering the earlier report submitted by the 4th respondent on 11.07.2024, wherein it is reported that the allegations made against the petitioner are false, the impugned order was passed by the respondent No.1. Though in the counter affidavit, it is stated that series of complaints about the conduct and lethargic attitude of the petitioner was received from the Teacher's Federation. But, there is no whisper in the counter affidavit as to whether any enquiry was conducted **by** the Education Department Officers on the so called series of complaints received against the petitioner or not. The stand of the 1st respondent itself is doubtful now after perusing the averments made in the counter affidavit. If there is any truth in his contention that he received series complaints against the petitioner, he has to state in the counter affidavit that, what action has been taken by him against the said complaints. Though it is stated in the counter affidavit that series of complaints were received against the petitioner, no material is placed before this Court to substantiate such contention.

10. In fact, on 12.02.2025, the first respondent issued show cause notice calling for the explanation of the petitioner within two days. But

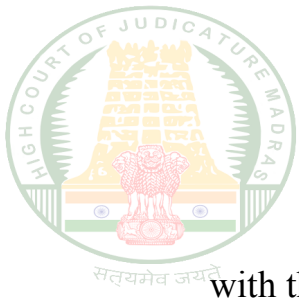


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without waiting for two days, the first respondent passed transfer order on the same day. Admittedly, in the present case, though it is stated in the impugned order that on the administrative ground, the petitioner is transferred, but it establishes that to satisfy somebody the first respondent in hurry mood issued the impugned order transferring the petitioner. This Court is unable to understand the emergency to pass transfer order without waiting for two days to enable the petitioner to put forth his version.

11. This Court can't brush aside the contention of the petitioner that while he is working as Superintendent in the fourth respondent office, he informed to the respondents 3 and 4 that there was wrong fixation of salaries to some teachers and due to that, there is huge monetary loss to the Government and it is confirmed by the third respondent after enquiry and the same was communicated to the second respondent vide letter dated 11.07.2024. Due to this reason only, some teachers, whose salaries were wrongly fixed, made complaint against the petitioner to trouble him in the name of Teachers Federation. If the first respondent calls for the reports from the respondents 3 and 4 and enquire



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with the petitioner, definitely he will know the truth. But it is not done.

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12. It is very strange to note that if the reason assigned for the transfer of the petitioner that since he is not maintained smooth relationship with the Teachers in Tirunelveli and Thoothukudi Districts is accepted to be correct, can it be possible for the petitioner to maintain smooth relationship with the Teachers in Thiruppathur District? If he is not fit to work as Superintendent in the fourth respondent office at Thoothukudi District, then, how he would be fit to work in Thiruppathur District.

13. For example, a Driver, who is working in the Madurai Transport Corporation was frequently found drunken during working hours, while driving the bus. Definitely, allowing him to drive the bus in an inebriated condition is serious danger to the passengers travelling in that bus and also to the common public on the roads. If he is transferred to Thanjavur Transport Corporation and is allowed to drive the bus in drunken condition at the cost of lives of the public, is there any rationality or justification in contending that transfer is ordered on

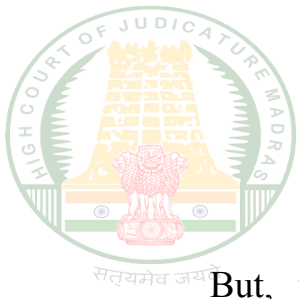


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administrative reasons? In such cases, transfer is not a solution. It is against the public safety and public interest. Competent authority has to take decision to post him in another duty, unconnected to driving or to oust him from the service of Transport Corporation by following due process of law, if there is no change in his habits or conduct. Otherwise, public would be at danger.

14. This Court is very conscious and mindful that it is accepted principle that in public service, transfer is an incident of service and courts should not interfere with the orders of transfers in the absence of any legally valid reasons. The appointing authorities have a wide discretion on that aspect while discharging their administrative and executive functions. But this power must be exercised honestly, *bonafidely* and reasonably. If such power is exercised for extraneous consideration or to please somebody to achieve an alien purpose or with an oblique motive to do undue favour to somebody, definitely, it would amount to *mala fide* and colourable exercise of power. Then, the court should interfere in the interest of justice. Transfers can be effected as per the general policy of the State for efficient and smooth administration.

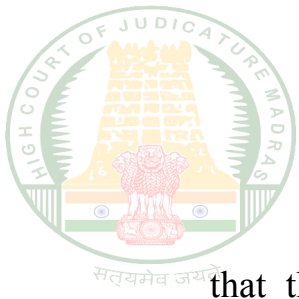


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But, the said administrative actions also should be just and fair. Unreasonable and unjustified transfers would cause irreparable harm not only to the employee, which would drive him to desperation, but also it can uproot his family. The unjustified and unreasonable transfers under the guise of administrative grounds would disturb the education of the children and leads to several problems and would cause severe inconvenience to the entire family of that employee and it will lead to serious hardships and demoralization. Hence, the competent authorities, who are taking decisions for transfers should keep in their mind all these aspects and their decisions should be reasonable and fair. As and when there is proved element of corruption, nepotism and vested interest against an employee, power of transfer can be exercised without any hesitation. This Court can't turn a 'Nelson's Eye' to the transfers, which are being made on the ground of administrative reasons, which is often misused only to harass few employees, who have no Godfathers and to do undue favour to somebody.

15. In the present case, the reason for the transfer of the petitioner, as stated in the impugned order and as averred in the counter affidavit, is



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that the TamilNadu Elementary Education School Federation gave a complaint against the petitioner and since he has not maintained smooth relationship with the Teachers working in Tirunelveli and Tuticorin District, the present transfer order is issued on administrative grounds, which is unjustified. This Court is of the considered opinion that complaints of the employees or Officers Associations or protests conducted by them should not be a ground for transferring the officials working in the Government office without examining the entire issue comprehensively. If such type of practices are allowed, no Government employee can serve with sincerity, honesty and commitment.

16. For the reasons stated above, this Court holds that the order dated 12.02.2025 of the first respondent transferring the petitioner is unreasonable, unjustified, illegal and it is issued in colourable exercise of power for malafide reasons. As such, it is liable to be quashed.

17. Accordingly, this Writ Petition is allowed and the order of transfer dated 12.02.2025 issued by the first respondent impugned in the writ petition is hereby quashed.



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There shall be no order as to costs.

Consequently, connected Miscellaneous Petitions are closed.

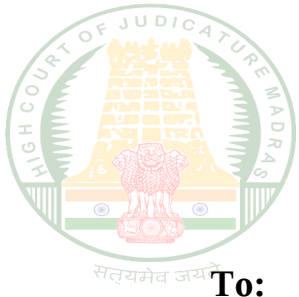
12.03.2025

NCC:yes/no

Index:yes/no

Internet:yes/no

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BATTU DEVANAND, J.

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