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W.A.(MD)NO.362 OF 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.06.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

W.A.(MD)No.362 of 2025 AND

C.M.P.(MD)No.3009 of 2025

1. The Director(ESI),
Directorate of Medical & Rural Health Services,
Teynampet,
Chennai.
2. The Medical Officer,
Urban Primary Health Center,
TSK Colony, Tiruppur,
Tiruppur District.
3. The Chief Medical Officer,
ESI Dispensary,
Rajapalayam,
Virudhunagar District. ... Appellants/ Respondents 1 to 3

Vs.

1. G.Kaleeswari ... 1st Respondent / Writ petitioner
2. Mahalakshmi ... 2nd Respondent / 4th Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 23.10.2024 made in W.P.(MD)No.21675 of 2024 on the file of this Court.



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W.A.(MD)NO.362 OF 2025

For Appellants : Mr.N.Satheesh Kumar,
Additional Government Pleader.

For R-1 : Mr.Mahaboob Athiff,
For Mr.R.Jenifar Bibin.

* * *

J U D G M E N T

(Order of the Court was delivered by G.R.SWAMINATHAN, J.)

Heard both sides.

2. The Department has filed this appeal questioning the order dated 23.10.2024 allowing W.P.(MD)No.21675 of 2024 filed by the first respondent herein.

3. The first respondent was appointed as a staff nurse. She is working in Government Urban Primary Health Centre at Tiruppur. She had made request for transferring her to ESI Dispensary, Rajapalayam. Since the request was not considered, she filed W.P. No.14902 of 2024. The writ petition was disposed of on 07.06.2024 in the following terms:-

“The petitioner is working as a Staff Nurse.
The native of the petitioner is Virudhunagar. She is
now transferred to Tirupur. She has joined there



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and she is working. However, she has got some ailments and therefore, she has made a representation to transfer her back to Virudhunagar District.

2. Matters of place of posting is within the domain of the employer. However, the employer can consider requests for transfer to native Districts as per the policy in force. Therefore, at best, the representation of the petitioner shall be considered as a transfer request and as per the request seniority and policy of the respondents, the request of the petitioner shall be considered as and when her turn comes and when the respondent takes up the issue of general transfer, including the request transfers.

3. With the aforesaid observations, the writ petition stands disposed of. There shall be no order as to costs."

4. When the writ petitioner was waiting for the consideration of her request, one Mahalakshmi, staff nurse, Government Urban Primary Health Centre, Tirupur was transferred and posted to ESI Dispensary, Rajapalayam vide order dated 25.06.2024. This was questioned by the writ petitioner in W.P.(MD)No.21675 of 2024.



Mahalakshmi was shown as the fourth respondent. The learned single Judge allowed the writ petition vide order dated 23.10.2024 in the following terms:-

“6. A perusal of the records indicate that the fourth respondent herein has given a representation on 12.06.2023 through the Hon'ble Minister for Electricity Department, who has nothing to do with the Directorate of Medical and Rural Health Services (ESI), Chennai. The fourth respondent has not given any request to the competent authority namely, the first respondent seeking transfer. Therefore, on the basis of the above said request, the first respondent cannot effect transfer under the impugned order. Considering the fact that the petitioner is working in Tiruppur for the past seven years, this Court is of the considered opinion that the petitioner should have been accommodated at Rajapalayam based upon her request dated 11.03.2024.

7. It is also brought to the notice of this Court that the petitioner has already filed W.P.No.14902 of 2024, seeking a Mandamus to issue transfer order to Virudhunagar District. This Court, by an order dated 07.06.2024 has directed the authorities to consider the request of the petitioner



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on the basis of request seniority and policy of the respondents. However, so far the first respondent has not passed any order on the basis of the request made by the writ petitioner herein or the orders passed by this Court on 07.06.2024.

8. The transfer order in favour of the fourth respondent herein is liable to be quashed and the same is quashed and the first respondent herein is directed to consider the request of the petitioner for transferring to Virudhunagar District, based upon the orders of this Court dated 07.06.2024 in W.P.No.14902 of 2024 and pass orders within a period of six weeks from the date of receipt of a copy of this order.”

5. Even though Mahalakshmi's transfer order was set aside, she has not chosen to file any appeal. It is the Department that has chosen to file this appeal. We find this to be strange. The learned single Judge had taken note of the fact that the representation was given to the Hon'ble Minister who had nothing to do with the Department in question and based on the same, the impugned order came to be passed. It is also relevant to note that Mahalakshmi had not cleared probation during the relevant time. On the other hand,



the writ petitioner had put in more than 11 years of service. A person who has not completed probation may not really be entitled to request transfer. Interference with the order of the learned Judge is not called for. This writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.SWAMINATHAN, J.) & (K.RAJASEKAR, J.)
23rd June 2025

NCC : Yes / No
Index : Yes / No
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