



W.P(MD)No.13457 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.08.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

**W.P(MD)No.13457 of 2025
and
WMP(MD) No. 9681 of 2025**

S.Selvi

... Petitioner

vs.

1. The High Court of Judicature of Madras,
Represented by its Registrar General,
Chennai - 600104.

2. The Principal District Judge,
Tirunelveli.

3. The Principal District Judge,
Tenkasi.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the impugned order passed by the 2nd respondent in A1.R.No.1503/2025 dated 22.01.2025, and in R.No. 1641/2024 dated 24.01.2025, order dated 27.01.2025 and the consequential impugned order passed by the 2nd respondent in A.No.



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WEB COPY 68/2025, dated 31.01.2025, D.No.1397/A1/2025 dated 03.02.2025 and quash the same as illegal and direct the respondents to absorb the petitioner in Tenkasi District with effect from the date on which her Juniors were absorbed in Tenkasi District with all consequential service and monetary benefits.

For Petitioner : Mr.R.J.Karthick

For R1 – R3 : Mr.N.Tamilmani

ORDER

(Order of the Court was made by S.M.SUBRAMANIAM, J.)

The lis on hand has been instituted questioning the validity of the rejection order dated 27.01.2025 passed by the Principle District Judge, Tirunelveli, declining to consider the request of the petitioner to transfer her from Tirunelveli to newly bifurcated Tenkasi District. Tirunelveli District was bifurcated as Tirunelveli and Tenkasi Districts on 13.01.2024. Willingness was sought for from the staff members and some of the staff members exercised their option to secure transfer to newly formed Tenkasi District. The High Court issued instructions for the purpose of considering the option exercised by the employees. The said instructions are followed in order to minimise the inconvenience to the administration and to avoid discrimination amongst the employees to get transfer



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to the place of their own choice. Therefore, such instructions are issued for the purpose of facilitating the employees to get transfer to the place of their choice and cannot be construed as a Rule, so as to have an enforceable right. The instructions cannot be equated with the statute or rules.

2. In the present case, the petitioner was initially appointed as Typist and posted in Pudukottai District. Subsequently, she was transferred from Pudukottai to Tirunelveli District. Her seniority in Tirunelveli District was fixed as per the terms and conditions of the request transfer order.

3. The grievance of the petitioner is that her juniors, who have exercised their option to get transfer to Tenkasi District were considered. However, her case was not considered without any valid reason. Thus, the present writ petition came to be instituted. When juniors to the petitioner were transferred and posted to Tenkasi District, the petitioner's case also should have been considered by the respondents.

4. Administrative transfers are incidental to service and conditions of service. When transfer is an administrative condition, ordinarily no application or



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writ is entertainable before the Court of Law. An application or writ against the order of administrative transfer is entertainable, if the transfer order has been issued by an incompetent authority having no jurisdiction or allegation of *mala fides* are raised. Even in case of raising an allegation of *mala fides*, the authorities against whom such allegations are raised, must be impleaded as a party-respondent in their personal capacity.

5. Place or post can never be the choice of an employee. Organisational requirements and public interest are of paramount importance. Transfers are unavoidable for efficient public administration, which is a constitutional mandate. Courts cannot interfere with day-to-day administration of the Government Departments / Organisations. Such interference undoubtedly would cause prejudice to the interest of efficient administration. It is the prerogative of the Executive Authority to take decisions regarding transfer and posting of an employee in a particular place and post.

6. Interference in administrative transfer orders are beyond the realm of the power of judicial review. Adjudication of transfer on merits are ordinarily



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impermissible. Personal / family grievances of the employees are to be considered only by the employer concerned, and not by the Courts. Misplaced sympathy by Courts in the matter of administrative transfers would cause inconvenience to the public administration.

7. In the case of *Shilpi Bose and Others vs. State of Bihar and Others*, reported in *AIR 1991 SC 532*, the Apex Court reiterated that the Courts should not interfere with the transfer order, which is made in public interest and for administrative reasons. Unless the transfer orders are made in violation of any mandatory statutory rules or on the ground of mala fide. A Government servant holding a transferable post have no vested right to remain posted at one place or the other. Transfer orders issued by the competent authority do not violate any of his service rights. If the Courts continue to interfere with the day-to-day transfer orders issued by the Government and the authorities, there will be complete chaos in the administration, which would not be conducive to public interest.

8. Question arises, whether the transfer policy / guidelines will have the effect of statute and are enforceable in the eye of law. In this context, in the



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11 SCC 402, the Hon'ble Supreme Court in unequivocal terms held that the order of transfer made even in transgression of administration guidelines cannot be interfered with, as they do not confer any legally enforceable rights.

9. Administrative guidelines for regulating transfers or outlining transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress, but cannot have the consequence of depriving or denying the competent authority to transfer a particular officer / servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments.

10. Therefore, the legal position regarding judicial interference in administrative transfers had been repeatedly reiterated by the Constitutional Courts. Courts cannot run the administration and interference in administrative transfers would affect the routine administration of the Government



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Departments/Organisations. Therefore, the cases of transfers to be considered based on the legal position settled by the Constitutional Courts.

11. The Hon'ble Supreme Court of India in the case of **Tushar D. Bhatt vs. State of Gujarat** reported in **(2009) 11 SCC 678**, held as follows:

“16. The legal position has been crystallised in a number of judgments that transfer is an incidence of service and transfers are made according to administrative exigencies.

17. In the instant case, in the entire tenure of more than 18 years, the appellant was only transferred twice. The appellant's transfer order cannot be termed as mala fide. The appellant was not justified in defying the transfer order and to level allegations against his superiors and remaining unauthorisedly absent from official duties from 11-10-1999 to 27-4-2000 i.e. more than six months. In the interest of discipline of any institution or organisation such an approach and attitude of the employees cannot be



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countenanced.

18. In Gujarat Electricity Board v. Atmaram Sungomal Poshani [(1989) 2 SCC 602 : 1989 SCC (L&S) 393 : (1989) 10 ATC 396 : AIR 1989 SC 1433] this Court had an occasion to examine the case of almost similar nature. This Court observed as under: (SCC p. 607, para 4)

“4. Transfer from one place to other is necessary in public interest and efficiency in the public administration. Whenever, a public servant is transferred he must comply with the order but if there be any genuine difficulty in proceeding on transfer it is open to him to make representation to the competent authority for stay, modification or cancellation of the transfer order. If the order of transfer is not stayed, modified or cancelled the public servant concerned must carry out the order of transfer. In the absence of any stay of the transfer order a public servant has no justification to avoid or evade the transfer order merely on the ground of having made a representation, or on the ground of his difficulty in moving from one place to the other. If he fails to proceed on transfer in compliance with the transfer order, he would expose himself to disciplinary action under the relevant rules, as has happened in the instant case. The respondent lost his service as he refused to comply with



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the order of his transfer from one place to the other”.”

12. In the recent case of ***The Tamil Nadu Agricultural University and Another vs. R.Agila ETC***, in Special Leave to Appeal (C) Nos.13070-13075 of 2022 dated 20 th August, 2024, the Hon'ble Supreme Court of India held as follows:

“18. Despite there being no interim order in their favour, respondent nos.4 and 7 continued to remain absent after being relieved from their original place of posting. As such, this Court is not inclined to extend any benefit of salary for the period of unauthorised absence. However, as the transfer order was quashed by the learned Single Judge, their service periods shall continue to be treated in continuity, and they would be entitled to whatever other benefits accrued to them due to this continuity, but no salary for the said period of unauthorised absence.”

13. Transfer guidelines are issued to avoid inconsistency while effecting transfers and to maintain transparency. These guidelines are issued enabling the competent authority to exercise their powers in a diligent manner and to eliminate unnecessary discrimination amongst the employees in the matter



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of transfers. Since the transfer is condition of service, transfer guidelines do not confer enforceable right to the employees. The primary purpose of issuing the guidelines is to improve transparency in the administration. Thus, it is for the convenience of the establishment and would not confer any right on the employees to claim place or post as a matter of right.

14. Rule 40(a) of the Tamil Nadu Judicial Ministerial Service empowers the competent authority to effect transfers. However, the said Rule would not provide any right to the employees to claim a particular post or place of their choice. No doubt, personal grievances if any placed by an employee, the same may be considered by an employer taking into consideration the interest of the public administration.

15. In the present case, the petitioner has given an option to transfer her to Tenkasi District. However, exercise of option by the petitioner would not confer right to claim the place or post. The decision on transfers by the competent authority are binding on the employee, since transfer is condition of service. Post or place can never be claimed as matter of right. Status cannot be claimed in



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public posts. Thus, facilitating an employee to exercise option in the matter of transfer would not be a ground to challenge the administrative transfer effected in the interest of public administration. However, general request transfers if made by any employee, the same may be considered by the employer in the interest of administration.

16. In view of the legal position as elaborated in the aforementioned paragraphs, the petitioner has not established any right to secure the relief from the hands of this Court. Consequently, the writ petition stands dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

[S.M.S.,J.] & [A.D.M.C.,J.]

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NCC : Yes

Index : Yes

Internet : Yes

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ORDER MADE IN
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