

**(2009) 11 MAD CK 0145**  
**In the Madras High Court**  
**Case No : Writ Petition No. 19941 of 2009**

K. Thirupathi

APPELLANT

Vs

The Govt. of Tamil Nadu and Others

RESPONDENT

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**Date of Decision :** 05-11-2009

**Acts Referred:**

Tamil Nadu State and Subordinate Services Rules, 1955 — Rule 40A

**Citation :** (2009) 11 MAD CK 0145

**Hon'ble Judges :** K. Chandru, J

**Bench :** Single Bench

**Advocate :** K. Kannan, for the Appellant; R. Neelankandan, Government Advocate, for the Respondent

**Final Decision :** Allowed

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## Judgement

K. Chandru, J.—The petitioner is working as a Secondary Grade teacher in the Panchayat Union Middle School at Kottampatti from 30.03.2000. Even before his entry into service as a Secondary Grade teacher, he went through a course in Engineering and got a B.E. Degree in Mechanical Engineering during April, 2000 from the Madurai Kamaraj University. Therefore, the petitioner in his representation dated 18.01.2007, mentioned that since he has already having B.E. qualification, he should be appointed in a regular post in the Government Polytechnic, for which, a separate Directorate is sought to be made by the State Government. In his representation, he has further stated that he should be appointed to any post in the School Education Department commensurate with the educational qualification by transfer of service. Since there was no reply from the respondents, the petitioner has filed the present writ petition. In support of his claim, the petitioner placed reliance on Rule 40 A of the Tamil Nadu State and Subordinate Service Rules, which was introduced by an amendment with effect from 15.09.2003 and the Rule reads as follows:

40-A.Transfer of Government Servant from one service to another service: Notwithstanding anything contained in these rules or in the Special Rules or

ad hoc rules, the State Government may, in public interest, transfer a Government Servant from one category or class of one service to another category or class of one service to another category or class of another service on administrative grounds.

Provided that the Government servant so transferred shall possess the requisite qualification and shall hold analogous post in the new service to which he is transferred with protection of pay and conditions of service attached to the post at the time of transfer.

2. Therefore, on the strength of this Rule, the petitioner seeks for appointment by transfer to some other service. The contention raised by the petitioner is misconceived. The Rule relied on by the petitioner is the power vested on the State Government to effect such transfer from one service to another service in public interest. In the present case, the petitioner's only contention is that having obtained an Engineering Degree, he should be appointed to any post coming under the Department of Technical Education. The Rule is not intended for such purpose. Even otherwise, if the petitioner feels that the present post of Secondary Grade teacher is not commensurate with his educational qualification, it is always open to him to apply for such post and then get selected by direct appointment. The present attempt to get a posting through transfer is clearly misconceived and without substance. Hence the writ petition shall stand dismissed. No costs.