



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2015

CORAM :

THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN
and
THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

Writ Appeal(MD) No.1156 of 2011
and
M.P(MD)No.1 of 2011

K.Kavitha

... Appellant

Vs.

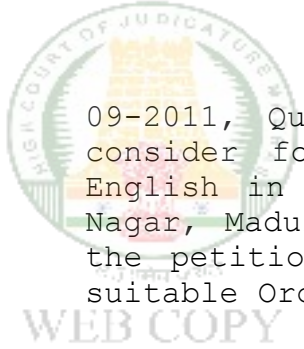
1. The State of Tamil Nadu,
Rep by its Secretary,
Department of School Education,
Fort St., George, Chennai 600 009.
2. The Director of Elementary Education,
College Road, Chennai 600 006.
3. The District Elementary Educational Officer,
Madurai, Madurai District.
4. The Assistant Elementary Educational Officer,
Madurai East Union, No.1, Kamala Street,
Thalakulam, Madurai 625 002.
5. The Headmaster,
Panchayat Union Middle School,
Thatchanendal, Madurai East Union,
Madurai 625 020.
6. The Headmaster,
Panchayat Union Middle School,
Kabeer Nagar, Madurai East Union,
Madurai 625 020.
7. S.V.Shanthi ... Respondents

Prayer:

Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 19.09.2011 made in W.P.(MD)No.10660 of 2011.

Prayer in WP(MD). 10660/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARIFIED MANDAMUS, calling for the records relating to the impugned order of transfer issued by the 3rd Respondent District Elementary Educational Officer in favour of the 7th Respondent S.V.Shanthi vide Na.Ka.No.2073/A5/2011, dated 03-



09-2011, Quash the same, and further Direct the Respondents 1 to 4 to consider forthwith the Petitioner for the post of B.T. Assistant in English in the 6th Respondent Panchayath Union Middle School at Kabeer Nagar, Madurai East Union, Madurai-625 020 by way of transfer for which the petitioner is legally entitled to, and pass such further or other suitable Order / Orders as this Honourable Court may deem fit.

For Appellant : Mr. Isaac Mohanlal
 For Respondents 1-6 : Mr. A.K. Baskarapandian,
 Special Government Pleader.
 For 7th Respondent : Mr. S. Visvalingam

JUDGMENT

(Judgment of the Court was delivered by V. RAMASUBRAMANIAN, J)

The writ appeal arises out of the dismissal of a writ petition filed by the appellant, challenging the transfer of the 7th respondent to a particular place over which the appellant staked a claim.

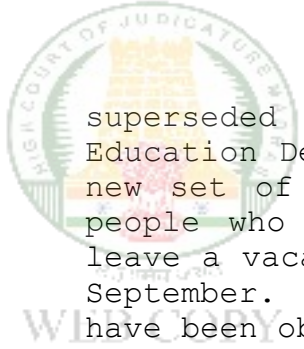
2. Heard Mr. Isaac Mohanlal, learned counsel for the appellant. Mr. A.K. Baskarapandian, learned Special Government Pleader for the respondents 1 to 6 and Mr. S. Visvalingam, learned counsel for the seventh respondent.

3. The appellant as well as the seventh respondent are working as B.T. Assistants. The seventh respondent was working in Panchayat Union Middle School, Thonthilingapuram, Kottampatti Panchayat Union. On her request and in accordance with the guidelines issued in G.O. Ms. (1D). No. 131, School Education Department, dated 28.04.2010, the seventh respondent was transferred and posted to the Panchayat Union Middle School, Kabeer Nagar, where there was a vacancy. This transfer was also subject to the seventh respondent foregoing her seniority.

4. After the transfer of the seventh respondent to Madurai East, a new set of guidelines were issued by the Government for the conduct of transfer counselling in G.O. Ms. (1D) No. 259, School Education Department, dated 09.09.2011. In the transfer counselling, the appellant herein wanted to be posted to the very same place, where the seventh respondent was posted. But since the place was filled up by the posting of the seventh respondent, the appellant came up with a writ petition in W.P (MD) No. 10660 of 2011, challenging the order of transfer of the seventh respondent. The said writ petition was dismissed by the learned Judge forcing the appellant, to come up with the above appeal.

5. As rightly observed by the learned Judge, the new guidelines issued in G.O. Ms. (1D). No. 259, School Education Department, dated 09.09.2011 came into force only after the transfer of the seventh respondent on 03.09.2011. It is the contention of the learned counsel for the appellant that the previous guidelines issued in G.O. Ms. (1D). No. 131, School Education Department, dated 28.04.2010, was for the academic year 2010-2011 and the same could not have been used for ordering the transfer of the seventh respondent on 03.09.2011.

6. But the above contention is devoid of merits. The guidelines issued on 28.04.2010, will hold the field until such time they are



superseded by the guidelines issued in G.O.Ms.(1D).No.259 School Education Department, dated 09.09.2015. For the purpose of issuance of a new set of guidelines and for the purpose of protecting the rights of people who seek transfer on various grounds, the administration cannot leave a vacancy from the commencement of the academic year from June till September. Therefore, the transfer of the seventh respondent could not have been objected to by the appellant.

7.Any right that accrues out of the guidelines, even if it is construed to be a right will be available only in relation to the vacancies arising after the issue of guidelines. The guidelines cannot affect the vacancies filled up before their issue. Hence, the writ appeal is dismissed. No costs. Consequently, M.P(MD)No.1 of 2011 is closed.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
State of Tamil Nadu,
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Fort St., George, Chennai 600 009.
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6. The Headmaster,
Panchayat Union Middle School,
Kabeer Nagar, Madurai East Union,
Madurai 625 020.

+ 1 CC TO MR.ISAAC MOHANLAL, ADVOCATE IN SR NO. 69860
+ 1 CC TO MR.S.VISVALINGAM, ADVOCATE IN SR NO. 69620
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR NO. 69698

SMS

TE/PM : 18/12/2015 : 3P/10C

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