



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2016

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

Writ Petition (MD) Nos.14629 and 14913 of 2015

V.Karpagam

... Petitioner in both W.Ps

Vs.

1.The Director of Elementary Education,
Office of Director of Elementary Education,
DPI Campus, College Road,
Chennai.

2.The District Elementary Education Officer,
District Elementary Education Office,
Theni, Theni District.

3.The Additional Assistant Elementary
Education Officer,
Assistant Elementary Education Office,
Bodinaickanur,
Theni District.

... Respondents in both W.Ps.

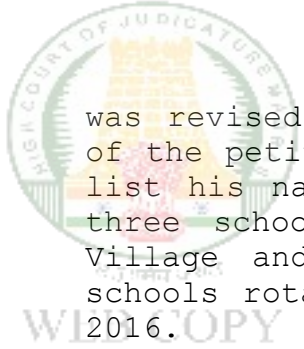
Prayer in W.P(MD)No.14629 of 2015: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the list for Hills Schools Rotation Scheme for Middldle School Head Masters for the Academic Year of 2015-2016 dated 25.2.2015 prepared by 3rd Respondent and quash the same and consequence of the same direct the respondents to revise the list in accordance with G.O.Ms.No.404 on the basis of representation made by this petitioner dated 9.7.2015.

Prayer in W.P(MD)No.14913 of 2015: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to Impugned Order in Na.Ka.No.2022/A2/2015 dated 16.8.2015 passed by the 2nd Respondent and in consequence of the same and direct the respondents to follow G.O.Ms. No.404.

For Petitioner : Mr.B.Rajesh Saravanan
For Respondents : Mr.V.Muruganandam,
(In both W.Ps) Additional Government Pleader.

ORDER

According to the petitioner, he is working as Headmaster in Panchayat Union Middle School, Kundalnaickanpatti Village, Bodinaickanur Union, Theni District which is a hill station. The second and third respondents had prepared seniority list in the year 2015 and the same



was revised on 20.07.2015. As per the original seniority list, the name of the petitioner was found in the 6th place but in the revised seniority list his name is gone to the 7th place. It is submitted that there are three schools in the hill areas namely, Kurankani Village, Bodimettu Village and Agamalai Village for effecting transfer as per the hill schools rotation scheme for middle school headmasters for the year 2015-2016.

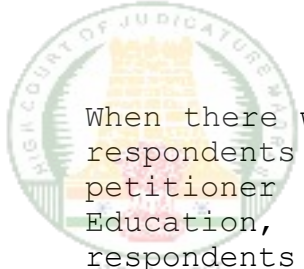
2.The grievance of the petitioner is that the seniority list prepared for transferring the middle school headmasters as per the hill station rotation scheme for the academic year 2015-2016 is not in accordance with G.O.Ms.No.404, Education, Science and Technology Department, dated 25.05.1995. According to the petitioner, the above Government Order, the order of rotation should start from the junior most in the list. Therefore, the petitioner sent a representation dated 09.07.2015 to the respondents requesting them to revise the list for hill school rotation scheme in accordance with G.O.Ms.No.404, Education, Science and Technology Department, dated 25.05.1995. However, without considering the same, as stated earlier, the second list was prepared. Challenging the said seniority list, the petitioner has come up with a writ petition in W.P(MD)No.14629 of 2015. In the meanwhile, based on the said seniority list, the petitioner was transferred to Agamalai, Panchayat Union Middle School, Bodinayakanur Union which is a hill station. Challenging the said transfer order dated 16.08.2015, the petitioner has filed W.P(MD)No.14913 of 2015.

3.It is admitted by both the sides that before the transfer a counselling will take place. The petitioner had filed W.P(MD)No.14629 of 2015 on 14.08.2015 however, counselling was organised for transfer from 16.08.2015. The petitioner also appeared and filed an affidavit stating that she had filed writ petition and objected to transfer as the seniority list prepared by the respondents is not in accordance with the Government Order in G.O.Ms.No.404. However, on the same day, the petitioner was transferred to Agamalai, Panchayat Union Middle School, Bodinayakanur Union.

4.Learned Additional Government Pleader produced the entire records and pointed out that the petitioner has given acceptance in the counselling for transfer to the above said place. The said letter is in a printed format. According to the petitioner, she was compelled to sign the same on the date of counselling. In fact, she had signed in the printed format agreeing only for hill rotation scheme and not expressing willingness.

5.Learned Additional Government Pleader further submitted that as the seniority list was under challenge by the petitioner, they could not follow G.O.Ms.No.404. Admittedly, if there is any stay, then there was an impediment for the respondents to follow G.O.Ms.No.404 which enables them to choose the junior most person to be transferred to a hill station. Further, the petitioner has already undergone her tenure in hill station as headmaster. Therefore, she cannot be transferred once again to another hill station when there are juniors to her.

6.Learned Additional Government Pleader has also produced the seniority list dated 25.06.2015. A perusal of the said list would show that there are at least three of them who are juniors to the petitioner.



When there was no impediment to follow the seniority list prepared by the respondents and when there is also a challenge to the same by the petitioner contending that it is not in accordance with G.O.Ms.No.404, Education, Science and Technology Department, dated 25.05.1995, the respondents ought to have taken care to follow the procedure before transferring the petitioner.

7.It is to be noted that there are three persons down the petitioner's name, they may be considered for the said transfer for the academic year 2015-2016. Therefore, the order transferring the petitioner which is impugned in W.P(MD)No.14913 has to be set aside. Accordingly, the order passed by the second respondent dated 16.08.2015 is set aside. As the transfer was made out of compulsion and she has not joined till today in the transferred place, the second respondent shall post the petitioner in an appropriate place at the earliest, preferably, within a period of three weeks from the date of receipt of a copy of this order.

8.In the result, the writ petitions are disposed of. No costs. Consequently, M.P(MD)Nos.1 to 3 of 2015 are closed.

Sd/
Assistant Registrar

/True Copy/

Sub Assistant Registrar.

To

1.The Director of Elementary Education,
Office of Director of Elementary Education,
DPI Campus, College Road,
Chennai.

2.The District Elementary Education Officer,
District Elementary Education Office,
Theni, Theni District.

3.The Additional Assistant Elementary
Education Officer,
Assistant Elementary Education Office,
Bodinaickanur,
Theni District.

+1CC to M/S.R. Rajesh Saravanan, Advocate, SR.No. 14298
+1CC to the Special Government Pleader, SR.No. 14414

Writ Petition (MD) Nos.14913 and 14629 of 2016
14.03.2016

AM/AN.MP/29.03.2016/3P/6C