



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2016

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

WEB COPY

Writ Petition (MD) Nos.14120 to 14127 of 2016andW.M.P(MD)Nos.10478 to 10489 and 10490 to 10501 of 2016In W.P(MD)No.14120 of 2016

M.MURUGAN	... PETITIONER in WP(MD) No.14120 of 2016
A.SUBRAMANIAM	... PETITIONER in WP(MD) No.14121 of 2016
J.BABY	... PETITIONER in WP(MD) No.14122 of 2016
S.HARIHARA RAM	... PETITIONER in WP(MD) No.14123 of 2016
C.BALAN	... PETITIONER in WP(MD) No.14124 of 2016
P.LEELA	... PETITIONER in WP(MD) No.14125 of 2016
P.SIVA KUMAR	... PETITIONER in WP(MD) No.14126 of 2016
C.SHYLA THANGAM	... PETITIONER in WP(MD) No.14127 of 2016

-VS-

1.The State of Tamil Nadu,
Rep by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St., George,
Chennai 600 009.

2.The Director of School Education,
DPI Campus, College Road,
Chennai 600 006.

3.The Joint Director of School Education,
DPI Campus, College Road,
Chennai 600 006.

... Respondents
in all the petitions

Prayer in WP(MD). 14120/ 2016 :

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 complete records of G.O. (D)No.258 dt.06/07/2016 in the file of the 1st respondent and quash the same as illegal, arbitrary and unconstitutional in so far as it has not incorporated the priority for the employees who have served in a place for more than three years immediately before the category of teachers seeking transfer to the place of employment of their spouse and further direct the 2nd respondents to consider the petitioners application seeking request transfer dated 27/07/2016 and consequently to grant a direction directing the 2nd respondent to pass an order to give the benefit of preference and priority to the petitioner in the general counselling for transfer, before the category of those who seek transfer to the place of employment of their spouse, in terms of

G.O.(D).NOs. 137 dated:09/06/2014 & 232 dated 10/07/2015, which stand amended by the G.O.(D).NO.258 dated:06/07/2016.

Prayer in WP(MD). 14121/ 2016 :

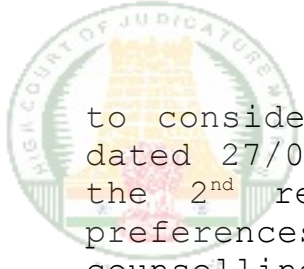
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the complete records of G.O.(D)No.258 dt.06/07/2016 in the file of the 1st respondent and quash the same as illegal, arbitrary and unconstitutional in so far as it has not incorporated the priority for the employees who have served in a place for more than three years immediately before the category of teachers seeking transfer to the place of employment of their spouse and further direct the 2nd respondents to consider the petitioners application seeking request transfer dated 27/07/2016 and consequently to grant a direction directing the 2nd respondent to pass an order to give the benefit of preferences and priority to the petitioner in the general counselling for transfer, before the category of those who seek transfer to the place of employment of their spouse, in terms of G.O.(D).NOs. 137 dated:09/06/2014 & 232 dated 10/07/2015, which stand amended by the G.O.(D).NO.258 dated:06/07/2016.

Prayer in WP(MD). 14122/ 2016 :

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 complete records of G.O.(D)No.258 dt.06/07/2016 in the file of the 1st respondent and quash the same as illegal, arbitrary and unconstitutional in so far as it has not incorporated the priority for the employees who have served in a place for more than three years immediately before the category of teachers seeking transfer to the place of employment of their spouse and further direct the 2nd respondents to consider the petitioners application seeking request transfer dated 27/07/2016 and consequently to grant a direction directing the 2nd respondent to pass an order to give the benefit of preferences and priority to the petitioner in the general counselling for transfer, before the category of those who seek transfer to the place of employment of their spouse, in terms of G.O.(D).NOs. 137 dated:09/06/2014 & 232 dated 10/07/2015, which stand amended by the G.O.(D).NO.258 dated:06/07/2016.

Prayer in WP(MD). 14123/ 2016 :

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 complete records of G.O.(D)No.258 dt.06/07/2016 in the file of the 1st respondent and quash the same as illegal, arbitrary and unconstitutional in so far as it has not incorporated the priority for the employees who have served in a place for more than three years immediately before the category of teachers seeking transfer to the place of employment of their spouse and further direct the 2nd respondents



to consider the petitioners application seeking request transfer dated 27/07/2016 and consequently to grant a direction directing the 2nd respondent to pass an order to give the benefit of preferences and priority to the petitioner in the general counselling for transfer, before the category of those who seek transfer to the place of employment of their spouse, in terms of G.O.(D).NOS. 137 dated:09/06/2014 & 232 dated 10/07/2015, which stand amended by the G.O.(D).NO.258 dated:06/07/2016.

Prayer in WP(MD). 14124/ 2016 :

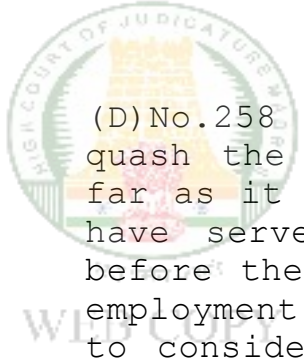
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the complete records of G.O. (D)No.258 dt.06/07/2016 in the file of the 1st respondent and quash the same as illegal, arbitrary and unconstitutional in so far as it has not incorporated the priority for the employees who have served in a place for more than three years immediately before the category of teachers seeking transfer to the place of employment of their spouse and further direct the 2nd respondents to consider the petitioners application seeking request transfer dated 27/07/2016 and consequently to grant a direction directing the 2nd respondent to pass an order to give the benefit of preferences and priority to the petitioner in the general counselling for transfer, before the category of those who seek transfer to the place of employment of their spouse, in terms of G.O.(D).NOS. 137 dated:09/06/2014 & 232 dated 10/07/2015, which stand amended by the G.O.(D).NO.258 dated:06/07/2016.

Prayer in WP(MD). 14125/ 2016 :

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 complete records of G.O. (D)No.258 dt.06/07/2016 in the file of the 1st respondent and quash the same as illegal, arbitrary and unconstitutional in so far as it has not incorporated the priority for the employees who have served in a place for more than three years immediately before the category of teachers seeking transfer to the place of employment of their spouse and further direct the 2nd respondents to consider the petitioners application seeking request transfer dated 27/07/2016 and consequently to grant a direction directing the 2nd respondent to pass an order to give the benefit of preferences and priority to the petitioner in the general counselling for transfer, before the category of those who seek transfer to the place of employment of their spouse, in terms of G.O.(D).NOS. 137 dated:09/06/2014 & 232 dated 10/07/2015, which stand amended by the G.O.(D).NO.258 dated:06/07/2016.

Prayer in WP(MD). 14126/ 2016 :

<https://hcservices.ecourts.gov.in/HCServices/> 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 complete records of G.O.



(D)No.258 dt.06/07/2016 in the file of the 1st respondent and quash the same as illegal, arbitrary and unconstitutional in so far as it has not incorporated the priority for the employees who have served in a place for more than three years immediately before the category of teachers seeking transfer to the place of employment of their spouse and further direct the 2nd respondents to consider the petitioners application seeking request transfer dated 27/07/2016 and consequently to grant a direction directing the 2nd respondent to pass an order to give the benefit of preferences and priority to the petitioner in the general counselling for transfer, before the category of those who seek transfer to the place of employment of their spouse, in terms of G.O.(D).NOs. 137 dated:09/06/2014 & 232 dated 10/07/2015, which stand amended by the G.O.(D).NO.258 dated:06/07/2016.

Prayer in WP(MD). 14127/ 2016 :

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 complete records of G.O. (D)No.258 dt.06/07/2016 in the file of the 1st respondent and quash the same as illegal, arbitrary and unconstitutional in so far as it has not incorporated the priority for the employees who have served in a place for more than three years immediately before the category of teachers seeking transfer to the place of employment of their spouse and further direct the 2nd respondents to consider the petitioners application seeking request transfer dated 27/07/2016 and consequently to grant a direction directing the 2nd respondent to pass an order to give the benefit of preferences and priority to the petitioner in the general counselling for transfer, before the category of those who seek transfer to the place of employment of their spouse, in terms of G.O.(D).NOs. 137 dated:09/06/2014 & 232 dated 10/07/2015, which stand amended by the G.O.(D).NO.258 dated:06/07/2016.

For Petitioners	: M/s.L.Victoria Gowri
For Respondents	: Mr.V.R.Shanmuganathan,
(In all W.Ps)	Special Government Pleader.

COMMON ORDER

Challenging the correctness of the order passed by the first respondent dated, 06.07.2016, the present writ petitions have been filed.

2.Learned counsel appearing for the petitioners vehemently contended that the priority given in the impugned Government Order (D)No.258, School Education Department, dated 06.07.2016 to the effect that the general transfer by counselling among those who seek transfer to the same vacancy is unreasonable and the removal of the clause found in G.O.(D)No.137, dated 09.06.2014 and G.O(D)No.232, dated 10.07.2014 that those who have served in the same place for more than three years as against those who claim transfer to the place of employment of their



spouse, would cause irreparable loss and hardship to the petitioners for the reason that they have to wait another number of years to get general transfer to their home town/district.

3.Learned counsel appearing for the petitioners would further contend that if the said Government Order is effected not only the petitioners herein but also the similarly placed persons who have accepted the noble profession to teach the students have to be left without any chance of moving out to their home town/districts and therefore, the impugned order is liable to be set aside.

4.Per contra, Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the respondents would submit that the narrow interpretation given by the petitioners to strike down Government Order (D)No.258, School Education Department, dated 06.07.2016 on the ground that the said Government Order has removed a clause which gives priority to those who have served in the same place for more than three years, cannot be understood in the way the petitioners' counsel has imported before this Court, as the removal of said clause is properly considered by which the respondents shall give priority to those who have worked for more than five years, sometimes about 10 years and therefore, giving priority to those teachers who have completed three years in one place is not possible, therefore, the said clause was removed rightly.

5.It is also stated that even though transfer is an incident of service, the petitioners have no vested or indefeasible right to claim transfer to any place on the ground that they have worked for more than three years in one place and therefore, they have to be transferred to a particular place.

6.I find merit on the submission made by the learned Special Government Pleader for the respondents for the reason that the said Government Order has been issued removing the clause found in previous Government Orders more particularly in G.O.(D) No.137, dated 09.06.2014 and G.O(D)No.232, dated 10.07.2014. The order of priority given in the impugned G.O.(D)No.258, School Education Department, dated 06.07.2016 to conduct general transfer counselling among those who seek transfer to the same vacancy, cannot be found to be unreasonable, because, the removal of clause giving priority to those who served in the same place for more than three years as against those who claim transfer to a place of employment of their spouse, cannot be considered to be causing hardship or difficulty, for the reason that the transfer counselling takes place on the basis of seniority among the eligible incumbents. Secondly, when several concessions in favour of physically handicapped/widow/spouse transfer are being given, the deletion of a particular clause fixing priority among those



who seek for the same vacancy in the impugned Government Order is, in my considered view cannot be said to be unreasonable.

7.A proper reading of the Government Order indicates that the persons who are working in one place for more than five years sometimes, even 10 years, will have to be given priority while making transfer from one place to another. Therefore, the removal of the said clause, in my considered view, cannot be challenged. Accordingly, the writ petitions are dismissed. No costs. Consequently, W.M.P(MD)Nos.10478 to 10486 and 10490 to 10501 of 2016 are closed.

Sd/-

Assistant Registrar(Writs)

/True copy/

Sub Assistant Registrar

To

1.The Principal Secretary to Government,
State of Tamil Nadu,
School Education Department,
Secretariat, Fort St., George,
Chennai 600 009.

2.The Director of School Education,
DPI Campus, College Road,
Chennai 600 006.

3.The Joint Director of School Education,
DPI Campus, College Road,
Chennai 600 006.

+8cc to M/s.L.Victoria Gowri, Advocate SR.No.42387,42388,42389,
42390, 42391,42392,42393,42394/16

sms

sm:CK:29/09/2016:6P/12C

Writ Petition (MD) Nos.14120 to 14127 of 2016
05.08.2016