



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.09.2016

CORAM

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P (MD) No.15629 of 2016

M.Sumathi

... Petitioner

vs.

1)The Joint Director General of School Education,
Office of the Director of School Education,
DPI Campus,
College Road,
Chennai.

2)The District Educational Officer,
District Education Office,
Tiruchirappalli.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondent to consider the petitioner's representations dated 08.06.2016 and 02.07.2016 in the light of the Government order vide letter No.Ms.No.92/S/2009 dated 22.07.2009.

For Petitioner : Mr.H.Thayumana Swamy
For Respondents : Mr.T.S.Mohammed Mohideen,
Additional Government Pleader

ORDER

'Attacking People with Disabilities is the lowest display of power I can think of'

- Molgan Freeman

This Writ of Mandamus has been filed for directing the respondents to consider the petitioner's representations dated 08.06.2016 and 02.07.2016 respectively, in the light of the Government order vide Letter No.Ms.No.92/S/2009 dated 22.07.2009.

2.The petitioner is stated to be a differently abled person with 60% loco-motor disability due to Polio Paralysis. She is working as a P.G Assistant teacher under the 2nd respondent. She had been appointed through the Teachers Recruitment Board. She was initially appointed as a Block Resource Centre Trainer, by direct recruitment on 26.03.2003. Thereafter, she was transferred



to Trichy on 22.08.2006 and posted as B.T Assistant then, she was transferred to Pudukottai District. After several transfers, finally, she was transferred to Government High School, Pettaivaithalai, where she served from 01.07.2013 to 16.12.2014. Thereafter, the petitioner gave a representation to the District Educational Officer, Trichy, on 04.12.2014, stating that there is a vacancy at Government Higher Secondary School at Thuvakudi, which is 8 kms away from the residence of the petitioner. The District Educational Officer considered the petitioner's grievance and placed her in Government Higher Secondary School at Thuvakudi. Thereafter, on 27.04.2016, the District Educational Officer has transferred her from Thuvakudi to Pettaivaithalai, which is stated to be 50 kms away from her residence. This order is under challenge in this writ petition.

3.It will be relevant to extract the rights and privileges enshrined under the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, which reads as under:-

(i) to spell out the responsibility of the State towards the prevention of disabilities, protection of rights, provision of medical care, education, training, employment, and rehabilitation of persons with disabilities;

(ii) to create barrier free environment for persons with disabilities;

(iii) to remove any discrimination against persons with disabilities in the sharing of development benefits, vis-av-vis non disabled persons;

(iv) to counteract any situation of the abuse and the exploitation of persons with disabilities;

(v) to lay down a strategy for comprehensive development of programmes and services and equalisation of opportunities for persons with disabilities; and

(vi) to make special provision of the integration of persons with disabilities into the social mainstream.

4.The learned counsel for the petitioner has relied upon Letter(Ms)No.92/S/09, dated 22.07.2009, issued by the Chief Secretary to Government, Personnel and Administrative Reforms (S) Department, Chennai, in which transfer guidelines have been revised and under the revised guidelines, it has been decided by the Government that physically challenged Government servants shall be posted near to their native places wherever possible. Based on this G.O., it is the contention of the petitioner that her claim to be retained at Thuvakudi, has to be considered by the respondents.



5.The learned counsel for the respondents would submit that considering the physical disability alleged, the respondents will consider the representations of the petitioner in the light of the transfer policy of the Government.

6.Recording the submission made by the learned counsel for the respondents, this writ petition is disposed of directing the respondents to consider the representations of the petitioner dated 08.06.2016 and 02.07.2016 respectively, and pass orders on merits and in accordance with law, in the light of the transfer policy of the Government as outlined in Letter No.Ms.No.92/S/2009 dated 22.07.2009, within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar.

To

1)The Joint Director General of School Education,
Office of the Director of School Education,
DPI Campus, College Road, Chennai.

2)The District Educational Officer,
District Education Office,
Tiruchirappalli.

+1CC to M/S.H. Thayumanaswamy, Advocate, SR.No. 50437

+1CC to the Special Government Pleader, SR.No. 50574

W.P(MD)No.15629 of 2016

06.09.2016

nbi

AM/GSV.PM/SAR-I/07.10.2016/3P/5C