

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2017

CORAM :

THE HON'BLE MR. JUSTICE T.RAJA

Cont.P.No.2469 of 2016

in

W.P.No.3545 of 2016

S.Chitradevi

Petitioner

vs.

1. Thiru.Kannappan
The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.
 2. Thiru.S.Gopidas
The Chief Educational Officer
Namakkal District,
Namakkal.
 3. Thiru.Kaja Mohideen
The District Educational Officer
Namakkal,
Namakkal District.
 4. Thiru.K.Balakrishnan
The Secretary
Sengunthar Mahajana Higher Secondary School
Gurusamipalayam - 637 403,
Namakkal District.
- ... Respondents

Contempt Petition filed under Section 11 of Contempt of Courts Act, to punish the respondent for wilfully disobeying the orders passed in W.P.No.3545 of 2016, dated 02.02.2016.

For petitioner : Mr.G.Sankaran

For respondents : Mr.A.N.Thambidurai, Spl G.P for R1 to R3 Mr.S.Natanarajan for R4

ORDER

Tmt.S.Chitradevi, complaining wilfull disobedience of the order passed by this Court in W.P.No.3545 of 2016, dated 02.02.2016.

2. It is pertinent to extract the relevant portion of My order, dated 02.02.2016 made in W.P.No.3545 of 2016 :

"3. The petitioner was originally appointed as BT Assistant (Mathematics) in the 4th respondent school on 11.4.2008 and subsequently, she was appointed in the regular sanctioned vacancy arose due to the promotion of the incumbent and her appointment was approved by the Education Department.

4. While so, in the 4th respondent school, when there were 3 BT Assistants (Mathematics) working in the school in the year 2015, a vacancy to the post of PG Assistant in History arose due to the retirement of incumbent N. Venkatalalam on 31.5.2015 and in the said vacancy, M.Bharathi, one of the B.T Assistant (Mathematics), was considered to be promoted to the post of PG Assistant. Based on the assessment of students teachers ratio, 4 posts of BT Assistant in the 4th respondent school were declared as surplus in which one post of BT Assistant (Mathematics) also included. On this basis, the petitioner being the third BT Assistant (Mathematics) sought to be transferred by re-deployment to Bharathi Higher

Secondary School, Reddipatti, Namakkal District, by proceedings of the second respondent dated 10.12.2015. On the basis of the re-deployment order, the petitioner joined in the transferred school on 14.12.2015.

5. In the meanwhile, since the vacancy has arisen in the erstwhile school, the petitioner has submitted a representation dated 21.1.2016 to the second respondent seeking re-transfer to the 4th respondent school in the post of BT Assistant and till date, the same has not been considered.

6. The only grievance of the petitioner is that as vacancy has arisen in the erstwhile school, which is also an aided school, no prejudice would be caused, if a direction is given to the respondents to consider her representation dated 21.1.2016.

7. Considering the limited request sought for by the petitioner, this Court directs the second respondent to consider and pass orders on the pending representation dated 21.01.2016, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

The writ petition is disposed of with the above directions. No costs."

she was working as B.T.Assistant in the fourth respondent School, she was re-deployed by an order passed by the Chief Educational Officer, Namakkal District on 10.12.2015. However, after she left the fourth respondent school, the post of P.G.Assistant was filled up by promoting one Tmt.M.Bharathi on 05.01.2016. Subsequent to the petitioner's deployment on 10.12.2015, she made a representation seeking for transfer to the fourth respondent school in the existing vacancy arose due to the promotion of incumbent Tmt.M.Bharathi. Since the said representation was not considered, the writ petition has been filed to re-transfer the petitioner to the post of BT Assistant in the fourth respondent school. Finally, this Court by order, dated 02.02.2016, referring the entire facts that the petitioner was redeployed on 10.12.2015 even when there was a vacancy to the post of P.G.Assistant and subsequent to her redeployment, Tmt.M.Bharathi was promoted as P.G.Assistant on 05.01.2016, directed to consider the case of the petitioner by the second respondent, the Chief Educational Officer, Namakkal on the basis of the representation dated 21.01.2016 on merits and in accordance with law within a period of four weeks. The second respondent also in his proceedings, dated 22.04.2016, has directed the fourth respondent School to consider the representation of the petitioner, Chitradevi. But till date the same has not been considered.

4. On the other hand, fourth respondent has considered the case of one Tmt.Lalitha, who according to the petitioner is junior to her. This claim was disputed by the fourth respondent.

5. Learned counsel appearing for the fourth respondent School would submit that so far as the inter-seniority of both the petitioner and Tmt.Lalitha is concerned, once both the petitioner and Tmt.Lalitha were redeployed from the fourth respondent School, their seniority also would go. Secondly, the first and second respondents were responsible for causing delay in filling up of the promotional post. Thirdly when Tmt.Lalitha was able to get relieving order from the Bharathi Higher Secondary School on 22.02.2016, the petitioner was able to get her relieving order only on 03.11.2016 from the same school. In the meanwhile the fourth respondent has passed a resolution, dated 01.07.2015 to promote one Tmt.Bharathi to the post of P.G.Assistant and also forwarded the same to the third respondent. Considering the fact that the relieving order dated 22.02.2016 of Tmt.Lalitha was passed by the Bharathi Higher Secondary School well before 03.11.2016, the date of relieving order of Tmt.S.Chitradevi, Tmt.Lalitha was considered as B.T.Assistant in the fourth respondent school.

6. But the question before this Court is admittedly both the petitioner, Tmt.S.Chitradevi and Tmt.Lalitha were

redeployed from the fourth respondent School and they were working in Bharathi Higher Secondary School. When they were working in the said school, one Tmt.Bharathi was given promotion to the post of P.G.Assistant from B.T.Assistant. As a result, the fourth respondent was to fill up the post of B.T.Assistant. In this context, this Court has passed the order, dated 02.02.2016 directing the second respondent to consider the representation of the petitioner on merits and in accordance with law within four weeks. Pursuant thereto, the second respondent also in his proceedings, dated 22.04.2016 has directed the fourth respondent School to consider the case of the petitioner, which has not been properly done.

7. In view of the above, the second respondent is hereby directed to consider the case of both the petitioner and Tmt.Lalitha as to whom should be re-transferred back to the fourth respondent School, within a period of four weeks from the date of receipt of a copy of this order on merits and in accordance with law. It is needless to mention that the second respondent shall give notice to the petitioner, Tmt.Lalitha and the fourth respondent School and after hearing all of them, the second respondent is directed to pass reasoned order, based on the records available as

on today.

With the above direction, this Court contempt
petition stands disposed of.

Sd/-

JOINT REGISTRAR (OS)

//Certified to be true copy//

Dated at Madras this the day of 2017.

COURT OFFICER(O.S.)

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Ss/CO/03/04/2017

To

1. Thiru.Kannappan
The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.
2. Thiru.S.Gopidas
The Chief Educational Officer
Namakkal District,
Namakkal.
3. Thiru.Kaja Mohideen
The District Educational Officer
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Namakkal District.
4. Thiru.K.Balakrishnan
The Secretary
Sengunthar Mahajana Higher Secondary School
Gurusamipalayam - 637 403.
Namakkal District.

One CC to Government Pleader, High Court, Sr.No.1785
One CC to M/S.G.Sankaran,Advocate,Sr.No.1768
One CC to M/s.S. Natanarajan,Advocate, Sr.No.1510