

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 07.02.2017
CORAM:
THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
W.P.No.2981 of 2017
and WMP.No.2863 of 2017

A.J.Mahalingam

.. Petitioner

vs.

1.The Chief Educational Officer,
Ooty, The Nilgiris District.

2.Sri Sarguru Tribal High School,
Rep. by its Secretary,
Coonoor, The Nilgiris District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records which relates to the impugned order passed by the first respondent dated 30.12.2016 bearing Ref.No.Na.Ka.No.4216/B4/2016 and quash the same and consequently direct the first respondent to declare that no surplus B.T. Assistant Teachers in the second respondent school.

For Petitioner : Mr.S.Ajikumar

For Respondents : Mr.V.Anandamoorthy,
Additional Government Pleader
(Education) for R1

O R D E R

By consent, this Writ Petition is taken up for final disposal.

2. The petitioner, who was working as B.T. Assistant (Science) in Sri Sarguru Tribal High School, Coonoor was transferred to C.S.I. Higher Secondary School, Kethy by way of redeployment along with the post, vide impugned order of the first respondent dated 30.12.2016 and challenging the legality of the same, has come forward with this writ petition.

3. The learned counsel appearing for the petitioner would submit that the petitioner, apart from discharging his duty as B.T. Assistant (Science) is also the Headmaster (In charge) and due to his teaching and coaching efforts, students of Sri Sarguru Tribal High School, Coonoor continued to perform extremely well and during the middle of the academic session, he

has been transferred all of a sudden and in that event, studies of the students bound to suffer. The learned counsel appearing for the petitioner would further submit that though one Mrs.G.L.Lakshmi is junior to the petitioner, she has not been transferred by way of redeployment and only the petitioner has been transferred during the middle of the academic session and since his family is also residing at Coonoor, he finds it extremely difficult to travel far and discharge his responsibilities and therefore, prays for interference.

4. Mr.V.Anandhamoorthy, learned Additional Government Pleader (Education), accepts notice on behalf of the first respondent and on instructions, would submit that the total strength of students in the school is 66 and totally 8 teachers are working and so far as science subject is concerned, 3 teachers are taking classes and though Mrs.G.L.Laskhmi is junior to the petitioner, she is physically challenged with disability of more than 50% and as such, she cannot be transferred and since the petitioner being the next person to be transferred along with the post by way of redeployment to a place which is 25 kms away from the present place of posting, he may not have any grievance and would further add that the petitioner, right from the order of transfer, is on medical leave and therefore, prays for dismissal of the writ petition.

5. In response to the same, learned counsel appearing for the petitioner would submit that as per the decision of the School Committee dated 06.01.2017, positive recommendation has been made by the first respondent to retain the petitioner as B.T. Assistant in the same school till the completion of the academic session and though the first respondent has disposed of the petitioner's representation, vide proceedings dated 18.01.2017, the meritorious performance on the part of the petitioner pointed out by the School Committee has not been considered and prays for appropriate orders.

6. This Court has considered the rival submissions and also perused the entire materials placed before it.

7. Admittedly, the School Committee, in it's meeting held on 06.01.2017, has made positive recommendation for retention of the petitioner as Graduate Assistant (Science) and that apart, the petitioner pleads family circumstances for his retention. Though it is contended by the learned counsel for the petitioner that Mrs.G.L.Lakshmi, who is junior to the petitioner, has not been disturbed, the fact remains that she is physically challenged, having disability of more than 50% and she may not be able to travel and the Education Department having decided that the post of Graduate Assistant (Science) is a surplus one, transferred the same along with the incumbent to C.S.I. Higher Secondary School, Kethy.

8. However, taking into consideration the family and other circumstances pleaded by the petitioner, this Court directs the petitioner to send one more representation to the first respondent seeking for his retention in the same place till the completion of the academic session within a period of two weeks from the date of receipt of a copy of this order and the first respondent, on receipt of the same, is directed to consider and pass orders on merits and in accordance with law within a period of two weeks thereafter and communicate the decision taken, to the petitioner.

9. This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

jvm

- 1.The Chief Educational Officer,
Ooty, The Nilgiris District.
- 2.The Secretary,
Sri Sarguru Tribal High School,
Coonoor, The Nilgiris District.

+1 cc to the Government Pleader sr 8137
+1 cc to M/s.Sai Bharath & Ilan Advocate sr 8092

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