

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.07.2017

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

W.P.No.11253 of 2004

T.Malarvizhi Maria Kumutha

.. Petitioner

Vs.

1. The Director of School Education
Chennai - 6.

2. The Chief Educational Officer
Tirunelveli - 9.

3. The District Educational Officer
Cheranmahadevi at Tirunelveli.

4. The Secretary
Nehru National Higher Secondary School
Vadakangulam - 627 116
Tirunelveli District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records relating to the order passed by the second respondent in Na.Ka.No.10403/Aaa 2/2004, dated 9.3.2004 and quash the same.

For Petitioner : Mr.P.Ganesan

For Respondents : Mrs.M.E.Raniselvam
Addl. Government Pleader
for respondents 1 to 3

Mr.C.Vediappan
for 4th respondent

ORDER

The petitioner has filed this writ petition seeking issuance of a writ of certiorari to call for the records relating to the order passed by the second respondent in Na.Ka.No.10403/Aaa 2/2004, dated 09.03.2004 and quash the same.

2. The facts in brief are as under: The petitioner, who possesses M.A. and B.Ed. qualification, joined the fourth

respondent school as B.T. Assistant (History) on 23.08.1999. From the date of appointment, it is stated that the petitioner has been discharging her duties without any blemish. It is the case of the petitioner that even though the fourth school is entitled to have at least Five B.T. Assistants as per the guidelines fixed vide G.O.Ms.No.525, Education Department, dated 29.12.1997, only Four B.T. Assistants are working and there is no surplus and despite the same, it is alleged that the second respondent, without following any norms, redeployed the petitioner from the fourth respondent school to Ramakrishna Higher Secondary School, Tissainvilai, vide proceedings dated 9.3.2004, which is under challenge in this writ petition.

3. The learned counsel appearing on behalf of the petitioner submitted that the fourth respondent School is having sufficient student strength to retain Five B.T. Assistants and non-furnishing of the details as to how the post was found to be surplus, in the impugned order passed by the second respondent, is contrary to the principles of natural justice and therefore, it is arbitrary and unreasonable.

4. He further submitted that no enquiry was conducted nor a verification was done by the respondent authorities to assess the strength of the students. The petitioner, having been appointed in sanctioned posts and granted the necessary approval by the Department, is entitled to continue in service and receive the salary.

5. He further submitted that even though the fourth respondent school in the letter dated 11.03.2004 addressed to the second respondent had categorically stated that the petitioner is the only B.T. Assistant (History) and there is no ground whatsoever to declare the said post as surplus, the second respondent had without assigning any reason re-deployed the petitioner and the said act of the second respondent cannot be countenanced.

6. The learned Additional Government Pleader appearing on behalf of the respondents 1 to 3 reiterated the reasons that weighed with the official respondents in passing the impugned order and prayed for dismissal of the writ petition.

7. I heard Mr.P.Ganesan, learned counsel for the petitioner, Mrs.M.E.Raniselvam, learned Additional Government Pleader for the respondents 1 to 3 and Mr.C.Vediappan, learned counsel for the 4th respondent and perused the documents available on record.

8. At the outset, it is to be noted that this Court as early as 23.04.2004 granted an order of interim stay of the impugned

order and the same had been made absolute on 19.03.2005. In effect, the order passed by the second respondent has not been implemented till date and the petitioner continues to work in the fourth respondent school.

9. The action of the second respondent, in my considered view, is in contravention of their own act, inasmuch as the respondent authorities had sanctioned the post to the fourth respondent school only after due verification of the strength of the students and on the basis of the particulars furnished by the fourth respondent school. The posts were sanctioned and necessary approval was also granted. Thereafter, it is not open to the second respondent to now declare that the post is surplus.

10. The respondent authorities have not placed any material on record to show that they had assessed the strength of the students in the fourth respondent school. The declaration of the petitioner as surplus and her re-deployment without any assessment of the student strength, in my firm view, is unsustainable and runs counter to G.O.Ms.No.525, Education Department, dated 29.12.1997.

11. That apart, the order under challenge passed by the second respondent is cryptic and no reason has been assigned whatsoever for declaring the petitioner as surplus. The government vide G.O.Ms.No.525, Education Department, dated 29.12.1997 had fixed the teacher-pupil ratio at 1:40. The fourth respondent school in its letter dated 11.03.2004 addressed to the second respondent had categorically stated that the petitioner is the only B.T. Assistant (History) and there is no ground whatsoever to declare the said post as surplus. However, the second respondent did not take any steps to modify/alter the order already passed without any requisite assessment of student strength.

12. For the foregoing reasons and considering the fact that by virtue of the interim order the petitioner is continuing in the fourth respondent school for the past 14 years, this writ petition is allowed and the impugned order in Na.Ka.No.10403/Aaa2 /2004 dated 09.03.2004 passed by the second respondent is set aside. No costs.
vs

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Director of School Education,
Chennai - 6.
2. The Chief Educational Officer,
Tirunelveli - 9.
3. The District Educational Officer,
Cheranmahadevi at Tirunelveli.

+1cc to Government Pleader SR.No.54912

+1cc to M/s.C.S.Associates, Advocate SR.No.54964

sm:12.7.2018

W.P.No.11253 of 2004



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