

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.18318 of 2012

and M.P.No.1 of 2012

Mrs.Latha Natchiyar

..Petitioner

Vs.

1.Government of Tamilnadu,
Represented By its Secretary,
Department of Education,
Fort St.George,
Chennai-600 009.

2.The Joint Director (Personnel)
Directorate of School Education,
College Road, DPI Complex,
Chennai-600 006.

3.Chief Educational Officer,
Panagal Maaligai, I Floor,
Saidapet,
Chennai-600 015.

4.Mr.Pasupathy

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 3 not to re-deploy the petitioner by treating her as surplus B.T.Assistant (Mathematics) in the Government Higher Secondary School, Arumbakkam, Chennai.

For Petitioner

:

Mr.V.Prakash
Senior Counsel
for Mr.K.Sudalaikannu

For Respondents

:

Mr.R.Vijayakumar (for 1 to 3)
Additional Government Pleader.

O R D E R

The relief sought for in this writ petition is for direction to the respondents 1 to 3 not to re-deploy the petitioner as surplus B.T.Assistant (Mathematics) in the Government Higher Secondary School, Arumbakkam, Chennai.

2.The writ petitioner states that she was constrained to file the present writ petition as the respondents 1 to 3 were threatening to re-deploy her from Government Higher Secondary School, Arumbakkam, Chennai, in favour of the fourth respondent inspite of the fact that the writ petitioner is senior to the fourth respondent. Further, it is stated that the respondents 1-3 had taken an attempt to favour the fourth respondent, contrary to the guidelines issued by the Government of Tamil Nadu in G.O.Ms.No.525 (School Education (D1) Department) dated 29.12.1997.

3.This Court is of the view that the very relief as such sought for is misconceived. The petitioner filed this writ petition under the apprehension that she is going to be re-deployed in order to favour the fourth respondent. May that it be. Re-deployment is to be done in accordance with the guidelines issued by the Government in this regard. In G.O.Ms.No.525 (School Education (D1) Department) dated 29.12.1997. The writ petitioner is of the view that the guidelines issued by the Government will be violated by the respondents 1 to 3. With these apprehensions, the writ petition was initially filed.

4.Learned Additional Government pleader appearing on behalf of the respondents 1 to 3 made a submission that subsequently the writ petitioner was re-deployed in the year 2012 and had participated in the counseling also. The counseling was conducted as per the guidelines issued by the competent authorities and the writ petitioner had also participated and accordingly she was re-deployed. The learned Additional Government Pleader further states that G.O.Ms.No.525 (School Education (D1) Department) dated 29.12.1997 as referred by the writ petitioner was not in force and a revised order was issued by the Government in G.O.(1D)No.266 School Education(Va.Se.2) Department, dated 06.07.2012.

5.The learned counsel for the writ petitioner submitted that the fact stated by the learned Additional Government Pleader that the writ petitioner was re-deployed was incorrect and the writ petitioner is serving in the same school as

Mathematics teacher.

6. Irrespective of this factual dispute, this Court is of the view that re-deployment is an administrative procedure to be adopted by following the guidelines issued by the Government in this regard. The writ petitioner has not challenged any such re-deployment order in this writ petition. The relief sought for in this writ petition itself is for a direction to the respondents 1 to 3 not to re-deploy the writ petitioner. Such a prayer cannot be considered by this Court in this writ petition. The cause for the writ petition will arise only after receipt of an administrative order by the competent authorities. There cannot be any presumptive prayers, which can be entertained by way of writ proceedings. In service matters, an employee cannot be presumed to be re-deployed to some other place and on that apprehension, he/she cannot file a petition stating that he/she should not be re-deployed.

7. This Court is of the opinion that deployment or re-deployment is part of service condition and a person, who is posted to a particular post or place should serve as per the administrative orders of the competent authorities. A Government employee cannot claim a place or post as a matter of choice. A Government servant wherever posted has to serve in the place in the interest of administration. Deployment or re-deployment no doubt, has to be done in accordance with rules in force and the guidelines issued by the Government in this regard. The writ petitioner has not cited any violation of the revised orders passed by the Government in G.O.(1D) No.266 School Education(Ve.Se.2) Department dated 06.07.2012. This apart, no such re-deployment is under challenge in this writ petition. The writ petition is filed only on apprehension and such a prayer sought for in this writ petition without any cause of action cannot be entertained.

8. The writ petitioner claims that she is senior to the fourth respondent and therefore she cannot be re-deployed. All these aspects are to be considered by the competent authorities, while undertaking the process of deployment or re-deployment. It is for the competent authorities to consider the rules and procedures while issuing the order of re-deployment. However, the learned Additional Government Pleader states that the writ petitioner had already been re-deployed in the year 2012. The learned Additional Government Pleader further states that for the retention of the 4th respondent, there is a specific reason that the Director of National Cadet Corps has issued an order to the authorities in proceedings dated 11.07.2012, addressed a

letter to the Director of School Education, College Road, Chennai, stating that "Thiru.Mr.S.Pasupathy, B.T.Assistant (Maths) of Government Higher Secondary School, Arumbakkam, Chennai-600 106, has been an Associate NCC Officer (ANO) since 27.06.2001. He has undergone Pre Commission and Refresher training at NCC Officers Training Academy (OTA), Kamptee, and has continuously strive to the best of his ability and has thereby been most effective in ensuring the optimal functioning of Troop No.364, affiliated with 1(TN) Bn NCC, Chennai." and accordingly it is further stated that "With reference to the aforesaid Government Orders, it is requested that Thiru.S.Pasupathy, B.T.Assistant(Maths), of Government Higher Secondary School, Arumbakkam, Chennai 600 106, be allowed to continue serving in the same institution (Government Higher Secondary School, Arumbakkam, Chennai), as any move to shift him from the Institution, will have an adverse impact on the enrollment and training of NCC cadets." Under these grounds, the Commodore, Deputy General, NCC has addressed a letter to the Director of School Education stating that the fourth respondent is to be retained in the same school in the interest of the NCC activities. Under these grounds, the Commodore, Deputy Director General NCC, Chennai, addressed a letter to the Director of School Education, Chennai to seek attention stating that the 4th respondent is to be retained in the same school in the interest of the NCC activities.

9.In this regard, the Government also issued G.O.Ms.No.61 Higher Education (D1) Department, dated 08.03.1999, which reads as follows:

"In the circumstances reported by the Deputy Director General NCC in his letter third read above and also in accordance with the decision taken at the first meeting of State Advisory Committee on NCC held on 17.11.1998, the Government, issue orders reiterating the earlier orders issued in Government order G.O.Ms.No.239, Education, Science and Technology, dated 23.3.95 to that effect that the Deputy Director General NCC should be consulted prior to issue of transfer orders of Associate NCC Officers under the administrative control of Department of School Education/Director of Collegiate Education/Director of Technical Education and Director of Medical Education."

10.The above said Government Order states that in respect of the teachers attached to the NCC cadres, a consultation is required with the NCC higher officials. Thus, it is clear that the Commodore, Deputy Director General, NCC had written a letter on 11.07.2012 with reference to G.O.Ms.No.61 Higher Education (D1) Department, dated 08.03.1999.

11. Thus, the allegations of the writ petitioner that the respondents 1 to 3 have made an attempt to favour the fourth respondent is incorrect. Thus, this Court is of the opinion that the prayer as sought for requires no consideration at all and the writ petitioner has not established any legal right in respect of the prayer in this writ petition. Thus, no further adjudication is required in this writ petition. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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Copy to:

- 1.The Secretary,
Government of Tamilnadu,
Department of Education,
Fort St.George,
Chennai-600 009.
- 2.The Joint Director (Personnel)
Directorate of School Education,
DPI Complex, College Road,
Chennai-600 006.
- 3.The Chief Educational Officer,
Panagal Maaligai, I Floor,
Saidapet,
Chennai-600 015.

+1cc to Mr.SUDALAIKANNU Advocate, S.R.No. 82061

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and M.P.No.1 of 2012

NM(CO)
TR(22/12/2017)