

In the High Court of Judicature at Madras

Dated : 28.08.2017

Coram :

The Honourable Mr.Justice S.M.SUBRAMANIAM

W.P.No.5212 of 2016

S.Muthuarasu

...Petitioner

Vs

1. The Principal Secretary to Government,
Education Department,
Secretariat, Chennai.
2. The Director,
Tamil Nadu Schools Education,
Chennai -6.
3. The Chief Educational Officer,
Office of Chief Education Office,
Coimbatore - 641 001.
4. The District Educational Officer,
Coimbatore.
5. Francina Sahaya Rani

...Respondents

Prayer: Petition under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records in Na.Ka.6318/A3/2015 dated 19.01.2016 on the file of the third respondent and to quash the same and further direct the second respondent to transfer the petitioner to the Government Higher Secondary School, Peedampalli.

For Petitioner :Ms.M.Amudha for Mr.R.Karthikeyan

For Respondents:Mr.M.Perumal for 1 to 5

ORDER

The order of rejection dated 19th January, 2016 issued by the third respondent, is under challenge and the writ petitioner sought for further direction to the second respondent to transfer him to Government Higher Secondary School,

Peedampalli.

2. On perusal of the order impugned in this writ petition dated 19th January, 2016, it is clear that the counseling for transfer has been conducted as per the instructions issued by the Director of School Education. The information as provided to the writ petitioner stating that the complaints given by the writ petitioner on 14.11.2015 and 22.12.2015 were considered and the counseling for transfer has been conducted on 12.08.2015 in accordance with the rules and guidelines issued by the Government in this regard.

3. Transfer can never be claimed as a matter of right by the Government employees which is an incidental to service more so, a condition of service. The prayer for a direction to the second respondent to transfer the writ petitioner to the Government Higher Secondary School, Peedampalli itself deserves no consideration, and deserves to be rejected at the very outset. Place or post can never be claimed as a matter of choice by the Public servant. The Government employees are duty bound to work wherever they are posted and post can never be claimed as a choice.

4. No writ can be entertained against the order of transfer in a routine manner. An order of transfer can be challenged only in exceptional circumstances. A writ can be entertained if an order of transfer was issued by an incompetent authority having no jurisdiction or an order is issued with a malafide intention or in violation of the statutory rules. Even in case of raising allegations of malafides the authority against whom, such a allegation is raised is to be impleaded as a party in the writ proceedings in his personal capacity. In the absence of any one of such grounds, no writ can be entertained under Article 226 of the Constitution of India.

5. Contrarily, in the case on hand, the writ petitioner seeks transfer to a particular school viz., Government Higher Secondary School, Peedampalli. This Court cannot issue any such transfer order to the writ petitioner as prayed in this writ petition. Furthermore, the counseling had also been conducted by the Department periodically and it is for the writ petitioner to submit his request application for transfer and proceed in accordance with the guidelines issued/prescribed by the competent authorities. Such being the factum of the case, no further adjudication on merits needs to be undertaken on the grounds raised in this writ petition.

Accordingly, this writ petition stands dismissed. However, there is no order as to costs.

-s/d-
Assistant Registrar (CCC)

True Copy

Sub-Assistant Registrar

vv

To

1. The Principal Secretary to Government,
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Secretariat, Chennai.
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Chennai -6.
3. The Chief Educational Officer,
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Coimbatore - 641 001.
4. The District Educational Officer,
Coimbatore.

+1 Cc to Govt. Pleader sr 62432.

W.P.No.5212 of 2016

SR(CO)
sp(27/09/2017)

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