



WEB COPY

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 25.04.2017**

CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN**

**W.A.(MD) Nos.1344 & 1345 of 2016
and
C.M.P.(MD) Nos.9755 & 9756 of 2016**

- 1.The State of Tamil Nadu
rep.by its Secretary to Government
School Education Department
Fort St.George, Chennai-9
- 2.The Director of Elementary Education
DPI Campus, College Road, Chennai
- 3.The District Elementary
Educational Officer
Office of the District Elementary
Educational Officer
Dindigul, Dindigul District
- 4.The Assistant Elementary
Educational Officer
Office of the Assistant
Elementary Educational Officer
Vedachandur
Dindigul District ... Appellants in W.A.(MD) No.1344 of 2016
&
Appellants 1 to 4 in W.A.(MD) No.1345 of 2016
- 5.The Assistant Elementary
Educational Officer
O/o.The Assistant Elementary
Educational Officer
Konanguttayur
Konganapuram Union
Salem District ... 5th Appellant in W.A.(MD) No.1345 of 2016

-vs-

- 1.S.Jacqueline Mary
Secondary Grade Teacher
Panchayat Union Elementary School
Chellakurthyur, Vedachandur Union
Dindigul District



2.R.Kavitha

Panchayat Union Middle School
Thottanampatti, Vedachandur Union
Dindigul District ... Respondents in W.A.(MD) No.1344 of 2016

3.R.Senthil Kumar

Secondary Grade Teacher
Panchayat Union Middle School
Kovilur, Vedachandur Union
Dindigul District

4.T.Neelaveni

Panchayat Union Middle School
Thottanampatti, Vedachandur Union
Dindigul District ... Respondents in W.A.(MD) No.1345 of 2016

PRAYER (in W.A.(MD) No.1344 of 2016) : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 15.12.2015, made in W.P.(MD) No.161 of 2014.

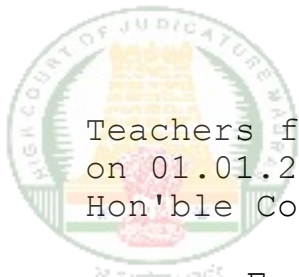
Prayer in WP(MD). 161/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records relating to the Impugned Order passed by the 3rd respondent in his Proceedings in Na.Ka.No.1500/1515/A2/Aa2/2013 dated 11.10.2013 and quash the same as illegal and consequentially to direct the respondents to consider the petitioner for promotion to th epost of B.t. Assistant (English) in the Panchayat Union Middle School, Thottanampatti, Vedachandur Union, Dindigul district, as epr the panel of Secondary Grade Teachers fit for promotion to the post of B.T. Assistant (English) as on 01.01.2013 within the period that may be stipulated by this Honourable Court.

PRAYER (in W.A.(MD) No.1345 of 2016) : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 15.12.2015, made in W.P.(MD) No.15181 of 2013.

Prayer in WP(MD). 15181/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue Writ of CERTIORARIFIED MANDAMUS calling for the records relating to the impugned order passed by the 3rd respondent in his proceedings in Na.ka.No.2228/a2/AA2/2013 dated 29.07.2013 and quash the same as illegal and consequentially to direct the respondents to consider the petitioners for promotion to the post of B.T.Assistant (Maths) in the Panchayat Union Middle School, Thottanampatti, Vedachandur union, Dindigul District as per the panel of Secondary Grade



Teachers fit for promotion to the post of B.T.Assistant (Maths) as on 01.01.2013 within the period that may be stipulated by this Hon'ble Court and .

For Appellants : Mr.V.Muruganantham, A.G.P.
(in both appeals)

For Respondents : Mr.T.Pon Ramkumar for R1
(in both appeals) Mr.B.Saravanan for R2

C O M M O N J U D G M E N T

[Judgment of the Court by T.S.SIVAGNANAM, J.]

Since the issue involved in both the appeals are identical in nature, they were clubbed, heard together and are being disposed of by this common Judgment.

2. Heard Mr.V.Muruganantham, learned Additional Government Pleader appearing for the appellants, Mr.T.Pon Ramkumar, learned counsel appearing for the first respondent and Mr.B.Saravanan, learned counsel appearing for the second respondent in both writ appeals and carefully perused the materials placed on record.

3. These writ appeals are directed against the orders, dated 15.12.2015, in W.P.(MD) Nos.161 of 2014 and 15181 of 2013.

4. The writ petitioners sought for setting aside the orders, dated 11.10.2013 and 29.07.2013, passed by the third appellant and to direct the appellants to consider the writ petitioners for promotion to the posts of B.T. Assistant (English) and B.T.Assistant (Maths) respectively, in Panchayat Union Middle School, Thottanampatti, Vedachandur Union, Dindigul District, as per the panel of Secondary Grade Teachers fit for promotion to the said posts as on 01.01.2013, within a time frame.

5. Among the grounds raised by the writ petitioners in challenging the orders of the third appellant, one of the grounds was with regard to his jurisdiction to effect orders of transfer in respect of the transfers from one Panchayat Union School to another Panchayat Union School. In this regard, Special Rule for Tamil Nadu Elementary Education Subordinate Service Rules framed under Article 309 of the Constitution of India, in particular Rule 10, was referred to.

6. The learned Single Judge, while considering the writ petitions, on perusal of the Rule, which was placed before the Court, held that in terms of the said Rule, the third appellant has no jurisdiction and it is only the second appellant, who is



the competent authority to effect transfer and postings. Therefore, the learned Single Judge allowed the writ petitions and held that the order of transfer of the third respondent were erroneous.

7. Then, coming to the second part of the relief sought for by the petitioners, with regard to promotion, the third appellant was directed to fill-up the said posts by way of promotion as per G.O. (Ms) No.239, School Education Department, dated 22.09.2007 and to pass appropriate orders within a time frame.

8. The Department is on appeals against the said orders passed by the learned Single Judge, but the second respondent in both the writ petitions have not challenged the same.

9. The learned Additional Government Pleader appearing for the appellants submitted that even as on date, when the writ petitions were heard, the said Rule stood amended pursuant to the amendment notification issued, which came into force on 26.06.1995, wherein the District Elementary Educational Officer was authorized to effect transfer and postings of all other categories in the service within and inter-Revenue District. Though this might have been the actual position on the date when the writ petitions were heard, the appellants have failed to bring notice of the Writ Court about the amended rule.

10. Be that as it may, attention has been invited to the proceedings of the second appellant, dated 11.05.2013, wherein it has been specifically ordered that no transfer or postings shall be effected and if at all it has to be done, it can be done only by the counselling. The purpose of adopting such method is to give fair chance to all teachers within the Panchayat Union or within the Revenue Unit and more particularly to ensure that on account of the transfer and postings, no teacher can be aggrieved of unfairness nor any breach of seniority.

11. In the instant case, admittedly, no counselling was conducted and all of a sudden, the second respondent herein were posted in the place to which the first respondent / writ petitioners were entitled to be accommodated. Though, the orders of transfer appear to be innocuous orders, they have virtually affected the service conditions of the writ petitioners. Further, the direction issued by the learned Single Judge to follow G.O. (Ms) No.239, School Education Department, dated 22.09.2007, cannot be faulted as the appellants are bound to follow such proceedings. Thus, for all the above reasons, we are of the view that the appellants have not made out any ground to interfere with the orders passed in the writ petitions and the writ appeals are, therefore, liable to be dismissed.



12. In the result, the writ appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

+1cc to SPECIAL GOVERNMENT PLEADER in SR. No.54236
+2cc to Mr.T.PON RAMKUMAR Advocate in SR. NO.53858
+1cc to Mr.B.SARAVANAN Advocate in SR. No.54216

KRK/SKM

JS/SV.MMS/5P-5C/3.05.2017

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and

C.M.P. (MD) Nos.9755 & 9756 of 2016

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