



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.07.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

WP (MD) No.12323 of 2017

and

W.M.P (MD) No.9488 of 2017

A.Singarayar

... Petitioner

vs.

- 1) The Director of Elementary School Education,
DPI Complex,
College Road,
Chennai-600 006.
- 2) The District Elementary Educational Officer,
Sethuram Pillai Colony,
Trichy-1.
- 3) The Assistant Elementary Educational Officer,
Musiri-621 211.
- 4) The Head Master,
Panchayat Union Middle School,
Neyveli,
Musiri Block,
Trichirappalli District.
- 5) The Head Master,
Panchayat Union Primary School,
Melapudumangalam,
Musiri Block,
Trichy District.
- 6) P.Gopalakrishnan,
Secondary Grade Teacher,
Panchayat Union Middle School,
Neyveli,
Musiri Block,
Trichirappalli District.

... Respondents

Petition filed under Article 226 of the Constitution of India,
<https://hcservices.ecourts.gov.in/hcservices/>
for issuance of a Writ of Certiorarified Mandamus, calling for the
records relating to the proceedings Na.Ka.No.1717/A3/2017 dated



24.05.2017 issued by the 2nd respondent and quash the same and further direct the official respondents to retain the petitioner at Panchayat Union Middle School, Neyveli, Musiri Union, Trichy District, with all monetary, service benefits.

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For Petitioner : Mr.A.Thirumurthy for
M/s.Victory Associates
For Respondents : Mr.R.Karthikeyan
Additional Government Pleader

ORDER

The petitioner has come to this Court for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings Na.Ka.No.1717/A3/2017, dated 24.05.2017, issued by the 2nd respondent to quash the same and consequently direct the official respondents to retain him at Panchayat Union Middle School, Neyveli, Musiri Union, Trichy District, with all monetary and service benefits.

2.The learned counsel for the petitioner would submit that when the seniority list was maintained on 03.08.2012, the petitioner was placed above the 6th respondent for the reason that 6th respondent on his own volition got transferred to Panchayat Union Elementary School, Manapparai, Musiri Union. In the year 2013, the 6th respondent once again made mutual transfer. Accepting the request of the 6th respondent and another person for mutual transfer, the 2nd respondent transferred the 6th respondent from Panchayat Union Elementary School, Manapparai, Musiri Union, to Panchayat Union Middle School, Neyveli, Musiri. Thus, the petitioner has been placed above the 6th respondent in the year 2013 also. While so, in the seniority list of teachers working in Panchayat Union Middle School, Neyveli, Musiri as on 01.01.2017, the petitioner has been placed below the 6th respondent/Mr.P.Gopalakrishnan.

3.It is further submitted that when the official respondents have found surplus teacher in Panchayat Union Middle School, Neyveli, Musiri, naturally, the 6th respondent being junior to the petitioner should be considered as surplus teacher. But, on the other hand, the petitioner who is admittedly senior to the 6th respondent has been transferred as a surplus teacher, therefore, the impugned order of re-deployment is liable to be set aside, he pleaded.

4.Per contra, the learned Additional Government Pleader appearing for the respondents would submit that in 2013, when the petitioner after joining the Panchayat Union Elementary School, Neyveli, Musiri Union, made a mutual transfer, his request was accepted by the 2nd respondent and thereupon he was brought back to

the Panchayat Union Middle School, Neyveli, Musiri for the past four years. When seniority list was prepared by the 2nd respondent, the petitioner has not questioned, therefore, the petitioner cannot come to this Court challenging the impugned order of re-deployment.

5. Such contention of the learned Additional Government Pleader cannot be accepted. The reason is, when the 2nd respondent has passed the order of mutual transfer transferring the 6th respondent from Panchayat Union Elementary School, Neyveli, Musiri Union, to Panchayat Union Middle School, Neyveli, Musiri, the petitioner has been rightly placed above the 6th respondent. But, all of a sudden, in the seniority list as on 01.01.2017, the petitioner has been wrongly placed below the 6th respondent, therefore, the 2nd respondent ought to have properly placed the 6th respondent below the petitioner in 2017 seniority list also. As he has not done so, the respondents cannot consider the petitioner as surplus teacher, hence, the principle of last come should be transferred first in case of surplus will have to be applied only against the 6th respondent, therefore, the impugned order dated 24.05.2017 is set aside. The 2nd respondent is directed to pass appropriate order treating the 6th respondent or any other junior as surplus teacher.

In the result, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CSIII)

/True Copy/

Sub-Assistant Registrar

To

- 1) The Director of Elementary School Education,
DPI Complex, College Road, Chennai-600 006.
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 - 5) The Head Master,
Panchayat Union Primary School,
Melapudumangalam, Musiri Block, Trichy District.
- +One cc to Mr.A.Thirumurthy, Advocate, SR.No.65210
+One cc to The Special Government Pleader, SR.No.65920

nbi