



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. (MD) No.15304 of 2017

and

W.M.P. (MD) No.12116 of 2017

D.Beulah Punithakumari

.. Petitioner

Versus

- 1.The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600 006.
- 2.The District Elementary Educational Officer,
Thanjavur District,
Thanjavur.
- 3.The District Elementary Educational Officer,
Thiruvarur District,
Thiruvarur.
- 4.The Asisstant Elementary Educational Officer,
Kumbakonam,
Thanjavur District.
- 5.The Judge Administrator,
The Tamil Evangelical Lutheran Church (TELC),
Administrative Office,
P.B.No.86, Tranquebar House,
Tiruchirapalli - 620 001.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the fifth respondent in No.Nil, dated 19.07.2017 and to quash the same and consequently, directing the respondents to allow the petitioner to continue to work as Secondary Grade Teacher in TELC Morning Star Primary School, Kumbakonam.

For Petitioner

: Mr.G.Sankaran
for Mr.F.Deepak

For R1 to R4

: Mr.R.Karthikeyan
Additional Government Pleader

**ORDER**

Mr.R.Karthikeyan, learned Additional Government Pleader takes notice for the respondents 1 to 4. By consent, the Writ Petition is taken up for final disposal.

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2.This writ petition is directed against the impugned order dated 19.07.2017, in and by which, the petitioner, who is a Secondary Grade Assistant, is transferred from the Tamil Evangelical Lutheran Church [in short 'the TELC'] Primary School, Kumbakonam to TELC Primary School, Valangaiman, in a retirement vacancy arose due to the retirement of one Maria Antony Joseph.

3.Mr.G.Sankaran, learned counsel appearing for the petitioner assailing the impugned order would submit that when the petitioner has not even completed 3 years of service in the TELC Primary School, Kumbakonam, during the middle of the academic year, without conducting any transfer counselling, which was followed all these years, she was transferred from her native place against G.O.(1D) No.258, School Education Department, dated 06.07.2016.

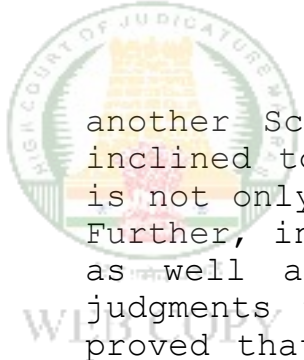
4.Adding further, he would submit that the School, from which, the petitioner has been transferred is having only two teachers. Therefore, when the petitioner is transferred, the fifth respondent should have complied with the conditions mentioned in G.O.(1D) No.258, School Education Department, dated 06.07.2016, which is given as under:

'8. (ஏ) (ii) இரண்டு ஆசிரியர்கள் பணிபுரியும் பள்ளியாக இருந்தால் புதிய ஆசிரியர் பணியில் சேர்ந்த பின்பு தான் மாறுதல் பெற்ற ஆசிரியர் பணியிலிருந்து விடுவிக்கப்பட வேண்டும்.'

5.A reading of the above clause shows that if one of the two teachers working in a School is liable to be transferred, such transfer can take place only after another teacher comes and takes charge.

6.It is further contended that when the earlier transfer orders have not been till date approved by the School Education Department, the present impugned order of transfer transferring the petitioner from the TELC Primary School, Kumbakonam, to the TELC Primary School, Valangaiman, may not be proper, as a result, the poor students will be put to grave problem, hence, it is pleaded, the impugned order is liable to be set aside.

7.But, I do not find any merit in the said contention. First of all, the petitioner has been transferred to a distance of 12 Kilometers only. Secondly, when this Court has appointed the fifth respondent to take care of the affairs of the TELC, interfering with the transfer order would definitely cause unwanted ramification in his administration. Therefore, when the fifth respondent has thought fit to effect transfer of teachers from one School to



another School to tone up the administration, this Court is not inclined to interfere with the transfer order. Moreover, transfer is not only an incident of service, but also a condition of service. Further, in the matter of transfer, it is well settled by this Court as well as by the Honourable Apex Court in umpteen number of judgments that no transfer order can be questioned, unless it is proved that the said order is passed *mala fide* or in violation of the statutory Rules or the authority, who passes the transfer order has no jurisdiction to pass the same. Therefore, this Writ Petition fails and the same is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600 006.
2. The District Elementary Educational Officer,
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5. The Judge Administrator,
The Tamil Evangelical Lutheran Church (TELC),
Administrative Office,
P.B.No.86, Tranquebar House,
Tiruchirapalli - 620 001.

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No.72920
SMN2
JS/GT/SAR.1/30.08.2017/3P-7C

W.P. (MD) No.15304 of 2017
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