

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.08.2018
Coram

The Hon'ble Mr. Justice Satrugana Pujahari

Writ Petition Nos. 21560 to 21563 of 2018
and
W.M.P Nos. 25305 and 25306 of 2018

- | | |
|--------------------------|------------------------------------|
| 1. R.Tamilselvi | ...Petitioner in W.P.No.21560/2018 |
| 2. T.Kangasabai | ...Petitioner in W.P.No.21561/2018 |
| 3. P.Muthamizh Venthanar | ...Petitioner in W.P.No.21562/2018 |
| 4. M.Kalamegam | ...Petitioner in W.P.No.21560/2018 |

Vs.

- | | |
|--|-----------------------------|
| 1. The State of Tamil Nadu,
Rep by its Principal Secretary,
Department of School Education,
Fort St. George, Chennai - 9. | |
| 2. The Director of School Education,
O/o. The Director of School Education,
DPI Campus, Chennai - 6. | |
| 3. The Joint Director of School Education (Higher Secondary),
O/o. The Joint Director of School Education (Higher Secondary),
DPI Campus, Chennai - 6. | |
| 4. The Chief Educational Officer,
O/o. The Chief Educational Officer,
Thiruvannamalai District. | ...Respondents in all W.Ps. |

Prayer in all W.Ps.

Writ Petitions filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the Impugned Government Order in G.O.(1D).No. 403, School Education [Pa.Ka.5(1)] Department dated 29.05.2018 on the file of the respondent No. 1 and quash the same insofar as Clause No. 8(i) is concerned, consequently directing the respondents to consider to transfer the petitioners in the vacancies arising out of upgradation pursuant to G.O.(MS) No.166 School Education [Pa.Ka.2(2)] Department, dated 07.08.2018 and vacancies arising out of promotion for the post of District Educational Officers from the post of Headmasters in Cuddalur, Perembalur and Ariyalur District respectively.

For Petitioners in all W.Ps.: Mr. K. Thilageswaran

For Respondents in all W.Ps.: Mrs. P.Kavitha
Government Advocate

COMMON O R D E R

Heard, Mr. K.Thilageswaran, the learned counsel appearing for the petitioners and Mrs. P. Kavitha, the learned Government Advocate who accepts notice on behalf of the respondents. With the consent of the learned counsel on either side, all these four Writ Petitions are taken up for disposal at the stage of admission.

2. In all these four Writ Petitions, the petitioners have challenged their non-inclusion in the transfer counseling for not being in the post on or between 31.05.2017, to be illegal and arbitrary as they were promoted earlier, but, directed to join work only on 01.06.2017, hence, the cut-off date prescribed has no application to them. Therefore, it is submitted that a notice be issued to the respondents and after hearing them, to declare debarring the petitioners participating in the counseling to be illegal and arbitrary and consequently, the petitioners be subjected to transfer as per the counseling. Pending disposal of the Writ Petitions, interim prayer has been made to allow them to participate in the counseling, which is going on. In this regard, reliance has been placed on an interim order rendered by the Madurai Bench of this Court in W.M.P (MD) No. 11349 of 2018 in W.P. No.12470 of 2018 dated 11.06.2018, wherein, the Madurai Bench has directed the respondents to allow the petitioner therein to participate in the transfer counseling. Intervening at this stage, the learned Government Advocate, who accepts notice for the respondents submits that the petitioners have no case, inasmuch as, the interim order in the aforesaid case was granted taking into consideration the peculiar facts and circumstance of that case, as, in that case though the petitioner was promoted on 01.02.2017, he was directed to continue in the said school inspite of his promotion against an existing vacancy and he was allowed to join only on 01.06.2017. Considering the fact that the petitioner's non-joining in his promotional post was caused for the fault attributable to the respondent, the Madurai Bench held that the petitioner could not have been debarred of participating in the counseling on the ground that he joined in the post only on 01.06.2017. However, in the case on hand, nothing being there, indicating the fact that the petitioners were promoted and posted against existing vacancies that arose before 01.06.2017, but were allowed to join only on 01.06.2017.

In such premises, when the Government, in its own wisdom, has come out with a policy decision fixing the cut-off date, and admittedly, the petitioners were not coming within the purview of such cut-off date prescribed, they have no prima facie case. Hence, she submits to dismiss the Writ Petition.

3. After hearing the counsel for the parties and perusal of the records, including the order passed by the Madurai Bench in the aforesaid writ petition, it appears to this Court that in the case before the Madurai Bench since the petitioner therein was promoted in the month of February against an existing vacancy but he was asked to join only after 01.06.2017, this Court passed the order directing the respondent to allow him to participate in the transfer counselling, notwithstanding the fact that he joined after the cut off date. But here, in this case, it appears the petitioners appear to have joined on promotion against the vacancies that arose on 01.06.2017. The Government in its own wisdom having taken a policy decision only to allow persons, who are in the post on or before 31.05.2017 in the transfer counselling, and admittedly, the petitioner being not there in the said post on the said date, therefore, this Court is of the view that the petitioners have no case seeking the direction as stated earlier. I would, therefore, dismiss these Writ Petitions at the stage of admission. Consequently the connected miscellaneous petitions stands closed. However, in the circumstances there shall be no order as to costs. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

1. The State of Tamil Nadu,
Rep by its Principal Secretary,
Department of School Education,
Fort St. George,
Chennai - 9.

2. The Director of School Education,
O/o. The Director of School Education,
DPI Campus,
Chennai - 6.

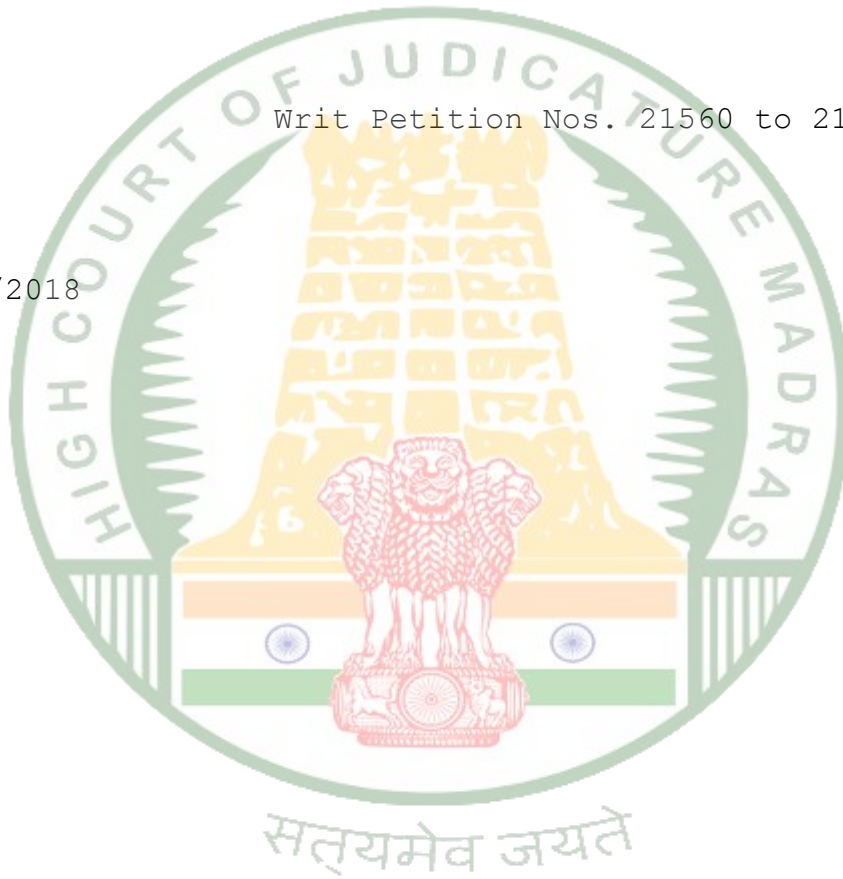
3. The Joint Director of School Education (Higher Secondary),
O/o. The Joint Director of School Education (Higher Secondary),
DPI Campus,
Chennai - 6.

4. The Chief Educational Officer,
O/o. The Chief Educational Officer,
Thiruvannamalai District.

+lcc to the Government Pleader Sr.58541

Writ Petition Nos. 21560 to 21563 of 2018

srg 12/10/2018



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