

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.14502 of 2018
and
W.M.P.No.17110 of 2018

Nirmala, W/o.Maria Selvaraj ... Petitioner

Vs.

1.The Director, Elementary Education
Directorate of Elementary Education
College Road, Nungambakkam
Chennai.

2.The District Elementary Educational Officer
Tiruppur North, Tiruppur.

3.The Block Elementary Educational Officer
Tiruppur North, Tiruppur.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to allow the petitioner to participate in the transfer counselling for the year 2018-19 to be held on 19.06.2018 enabling her to get transfer to her desired place.

For Petitioner : Mr.Karl Marx. K.C.

For Respondents: Mr.K.Karthikeyan
Government Advocate

O R D E R

The relief sought for in this writ petition is to direct the respondents to allow the petitioner to participate in the transfer counselling for the year 2018-19 to be held on 19.06.2018 enabling her to get transfer to her desired place.

2.The learned counsel appearing on behalf of the writ petitioner made a submission that the writ petitioner is eligible to participate in the transfer counselling scheduled to be held on 19.06.2018. However, the respondents are not permitting the writ petitioner to participate in the counselling procedures enabling her to opt the place of her choice.

3.The learned Government Advocate appearing on behalf of the respondents made a submission that the counselling procedures and the instructions issued in G.O.(1D) No.403 dated 29.05.2018, more specifically, Clause 8(i) of the said G.O. states that the teachers who had joined in the present posts before 01.06.2017 alone are eligible to participate in the transfer counselling. However, it is not stated in the Government order that "If the teacher had joined on or before 01.06.2017". When such a language is not adopted in the G.O., it is to be interpreted that a teacher, who joined in the present post before 01.06.2017 alone would be eligible and allowed to participate in the transfer counselling. The teacher, who joined on 01.06.2017 would not be eligible to participate in the counselling.

4.The learned counsel appearing for the petitioner contended that the petitioner had been transferred to the present station and relieved from the earlier post on 31.05.2017 and joined in the present post on 01.06.2017 and that it is not the fault of the writ petitioner.

5.However, the writ petitioner had not challenged any administrative delay in relieving her from the earlier post. The fact remains that the writ petitioner had joined on 01.06.2017 and as per G.O.(1D).No.403 dated 29.05.2018 the writ petitioner is not entitled to participate in the transfer counselling. This court is of an opinion that the transfer counselling is a facility provided to the Government employees. Counselling is not a part of service condition. The facilities provided to the Government Servant can never be claimed as a matter of right. Such facilities are provided for providing more convenience to the teachers and for efficient functioning of the public administration. The facilities or concessions provided to the Government employees can never be claimed as a matter of legal right. However, if there is any violation of statute or if any discrepancy in this regard, then the aggrieved person can approach the competent court of law. But the Government order states that the employees who had joined prior to 01.06.2017 alone are eligible to participate in the transfer counselling. Therefore, the petitioner is not qualified.

6.The learned Government Advocate appearing for the respondents submits that if any such instruction is given for the next academic year, then the writ petitioner is eligible to participate in the forthcoming transfer counselling in accordance with procedures as contemplated.

7.In view of the fact that as per the instructions/ guidelines issued in the above said G.O. the petitioner is not coming within the cut off date as fixed by the Government for the purpose of participating in the transfer counselling, hence, no further adjudication is required in respect of the grounds raised in this writ petition by the writ petitioner.

8. Accordingly, this writ petition is devoid of merits and dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

may a

To

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Chennai.

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+ 1 cc to MR. Karl Marx K.C. Advocate SR.38121

+ 1 cc to Mr. Government Pleader Sr.38270

W.P.No.14502 of 2018

VBA (CO)
EU (06/07/2018)

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