

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03-07-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.28636 of 2016

And

W.M.P.Nos.24696 of 2016, 3196 and 36079 of 2017

S.Kiruthika .. Petitioner

Versus

- 1.The Director of Elementary Education,
DPI Compound,
College Road,
Chennai-600 006.
- 2.The District Elementary Educational Officer,
Kancheepuram,
Kancheepuram District.
- 3.The Assistant Elementary Educational Officer,
Thirukazhukundram,
Kancheepuram District,
Pincode - 603 109. .. Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the second respondent proceedings vide Na.Ka.No.1887/ A5/2016 dated 6.8.2016 and quash the same.

For Petitioner : Mr.V.Karthikeyan
For Respondents : Mr.K.Karthikeyan,
Government Advocate.

O R D E R

The order passed by the second respondent in proceedings dated 6.8.2016, redeploying the writ petitioner from Panchayat Union Middle School, Nalverpet to Panchayat Union Middle School, Kunnathur, is under challenge in this writ petition.

2. The learned counsel, appearing on behalf of the writ petitioner, strenuously contended that the impugned order of redeployment is untenable. The writ petitioner is the only English teacher working in Panchayat Union Middle School at Nalverpet and further some other junior teachers are also working in the very same school. Such being the factum of the case, the writ petitioner has been transferred contrary to the Government Orders issued in respect of the deployment.

3. The learned counsel for the writ petitioner is of an opinion that the writ petitioner is entitled to continue in the very same school as B.T. Assistant (English). However, in violation of the Government Orders, the writ petitioner has been deployed to the neighbouring school at Kunnathur.

4. The writ petitioner states that she was appointed as B.T. Assistant (English) by the first respondent on 30.12.2008 in Panchayat Union Middle School, Melsathamangalam, Peranamallur Block, Tiruvannamalai District. Subsequently, she was transferred and posted as B.T. Assistant in Panchayat Union Middle School, Nalverpet, Thirukazhukundram Block, Kancheepuram District on 2.1.2014. The said transfer was issued on administrative grounds. The writ petitioner was working to the satisfaction of her superiors. To her shock and surprise on 11.8.2016, the third respondent-Assistant Elementary Educational Officer came to the School and informed the writ petitioner that she was transferred to Panchayat Union Middle School, Kunnathur, Thirukazhukundram Block, Kancheepuram District. The writ petitioner was transferred on the ground that there was surplus teachers working in the Panchayat Union Middle School at Nalverpet and considering the students strength, the writ petitioner was transferred to the Panchayat Union Middle School at Kunnathur, wherein the post of B.T. Assistant (English) was lying vacant. The learned counsel for the writ petitioner contended that the said deployment of the writ petitioner is contrary to the guidelines issued by the Government in G.O.Ms.No.270, School Education Department, dated 10.7.2012.

5. The learned Government Advocate, appearing on behalf of the respondents, submitted a copy of the Inspection Report conducted by the competent authorities. The inspection was conducted on 9.9.2016. On that day, out of 189 students, 168 students were present. The total strength of the school as on 9.9.2016 was 189. Even as per the Inspection Report for the academic year 2017-2018, the students strength was 156 out of 172. Further, in the academic year 2018-2019, the students strength of the school at Nalverpet is 176. Thus, for the past three years, there was no increase in the students strength and therefore, there is no possibility to deploy the writ petitioner

to the original post at Nalverpet. When this Court asked the learned Government Advocate to find out the current students strength, so as to reconsider the case of the writ petitioner for redeployment to the same school at Nalverpet, it is informed that even as per the current Inspection Report, there is no adequate students strength for the purpose of accommodating the writ petitioner as B.T. Assistant (English) in the Panchayat Union Middle School at Nalverpet.

6. The learned Government Advocate is of an opinion that the writ petitioner was a junior most B.T. Assistant (English) and another B.T. Assistant (English) is already working in the same school, who is the senior. The said contention, though disputed by the learned counsel for the writ petitioner, none of them had produced the details in respect of the teachers already working. If at all, there is no English teacher in the Panchayat Union Middle School at Nalverpet, it is for the competent authorities to ascertain the students strength and properly deploy a teacher for taking classes in English subject. However, the right of the writ petitioner is to be considered in this writ petition whether the English teacher is working in a particular school or not, cannot be construed as a service condition in respect of the writ petitioner, who moved the present writ petition, challenging the deployment order, transferring her from Nalverpet to Kunnathur in proceedings dated 6.8.2016. The writ petitioner cannot challenge the order on the ground that there is no English teacher in the school. If at all, there is no English teacher, it is for the administration to take a decision and transfer any one of the English teacher as required and in the interest of school administration. However, on this ground, the writ petitioner cannot approach the Court and seek for a direction to retain her in the same post at Nalverpet.

7. The writ petitioner is a Government teacher. She is liable to be transferred on deployment on administration grounds. Deployment of a teacher from one school to another school is part of service condition. Post or place can never be claimed as a matter of choice by a public servant. However, by challenging the deployment order, the writ petitioner cannot remain absent from attending her job. Thus, this Court is of an opinion that the writ petitioner was transferred from Nalverpet to Kunnathur, which is in the same block, namely, Thirukazhukundaram, cannot take an exception by not joining duty for the past two years.

8. It is informed by the learned Government Advocate that pursuant to the order of deployment dated 6.8.2016, the writ petitioner was relieved from Panchayat Union Middle School, Nalverpet on 8.8.2016. However, the writ petitioner filed the

present writ petition and obtained an interim order on 17.8.2016. Thus, as per the Stay order, the writ petitioner was not allowed to join duty in view of the fact that she had already been relieved from the post of Panchayat Union Middle School at Nalverpet. However, there is no representation or joining report on the part of the writ petitioner expressing her willingness to join duty at Panchayat Union Middle School at Kunnathur. In the event of any such representation/joining report on the part of the writ petitioner, at least, this Court would be in a position to direct the respondents to grant permission to join duty at Kunnathur during the relevant point of time. Contrarily, the writ petitioner remained absent without attending duty for the past about two years. The very conduct of the teacher in not joining duty and not teaching the students for the past two years is to be deprecated.

9. The profession of teaching is a noble profession. The young students and their interests are of paramount importance. The teachers working in a school, no doubt, are entitled to claim their rights and the service conditions. However, when such an order of deployment, transferring the writ petitioner in the same block and more-so, to a nearby school, is not implemented, then this Court is of an apprehension that it is very difficult to run the public administration by the department. The deployment from one school to another school on the ground that there is no adequate students strength can never be claimed as a matter of right. The deployment order passed on an administrative ground, cannot be construed as violation of service conditions. A teacher, who is deployed from one school to another school, based on lack of students strength will not constitute any cause of action or legal right to file a writ petition and seek a direction to remain in the same school.

10. The writ petitioner, even in the affidavit, has not named the junior, who is allowed to work in the same school, namely, Panchayat Union Middle School, Nalverpet. There is no averment in the affidavit nor any such junior has been impleaded as a party respondent in the writ proceedings. The allegation mainly raised in the writ petition is that the writ petitioner is not a junior most and the deployment order passed is in violation of the Government guidelines/instructions issued.

11. Certain guidelines/instructions issued by the authorities can never be considered as a rule for strict enforceability. The deployments and transfers are issued mostly on administrative grounds. Only in the event of any mala fide intention on the part of the competent authority or if there is

any violation of statutory rules, then alone the writ proceedings can be entertained. In all other circumstances, the public servant, more specifically, a teacher is duty bound to work in a school where she is posted in the interest of the students and in the interest of the school. In the present writ petition, peculiarly, the writ petitioner has not attended duty for the past two years merely on the ground that the writ petition is pending. Even in case of granting of stay by the Court and such a stay order granted after relieving the writ petitioner and those facts were not brought to the knowledge of the Court, at the time of grant of stay, then it is the duty of the writ petitioner to see that those facts are placed before this Court or at least, the writ petitioner ought to have joined in the deployed post, but nothing happened. However, the writ petitioner filed WMP No.36079 of 2017 for a direction to direct the respondents to allow the writ petitioner to join in the said post of B.T. Assistant in English in the Panchayat Union Middle School at Nalverpet, Thirukazhukundram Block. However, the said WMP was filed on 14.12.2017. The interim stay was granted by this Court on 17.8.2016 and after a lapse of one year and four months, a direction petition is filed, permitting the writ petitioner to join duty. Even during that one year and four months, the writ petitioner has not joined duty in the deployed place.

12. This being the conduct of the writ petitioner, this Court is of an opinion that the writ petitioner has committed an act of misconduct and further she would have joined in the deployed place at least during the pendency of the writ petition and the same has not been done by the writ petitioner, which shows not only the callous attitude but also the indifferent mind set of the teacher, who is supposed to join in the Panchayat Union Middle School for the welfare of the students.

13. As stated supra, the deployment or transfer is an administrative decision. In the absence of establishing violation of any service condition, no writ proceedings can be entertained. This apart, the writ petitioner has been deployed from Panchayat Union Middle School Navapurlet to Panchayat Union Middle School, Kunnathur, which is in the same block and the distance between these two schools are hardly within 10 kilometers as per the learned Government Advocate.

14. Such being the factum, this Court is unable to understand as to why the writ petitioner has not joined duty in the deployed place, which is nearby to the present school, namely, the Panchayat Union Middle School at Nalverpet. For all

these reasons, the writ petitioner has not made out any case for granting the relief, as such, sought for in this writ petition.

15. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/--

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Svn

To

- 1.The Director of Elementary Education,
DPI Compound,
College Road,
Chennai-600 006.
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Kancheepuram,
Kancheepuram District.
- 3.The Assistant Elementary Educational Officer,
Thirukazhukundram,
Kancheepuram District,
Pincode - 603 109.

+1cc to Government Pleader Sr.No.43381

RK(CO)

sm:16.7.2018

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