

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2018

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.32667 of 2018 and

W.M.P.No.37874 of 2018

K.L.Felina

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Petitioner

Vs

1.The State of Tamil Nadu
rep.by its Principal Secretary to Government
School Education Department, Secretariat
Fort St.George, Chennai 600 009.

2.The Director of School Education
DPI Campus, College Road, Chennai-600 006.

3.The Chief Educational Officer
Thiruvannamalai District, Thiruvannamalai.

4.The District Educational Officer
Thiruvannamalai, Thiruvannamalai District.

5.The Correspondent, St.Joseph Higher Secondary
School, C.Nammiandal, Chengam Taluk
Thiruvannamalai District.

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Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus directing the respondents 1 to 4 to pass orders for transfer of surplus teaching posts in favour of the fifth respondent school as per G.O.Ms.No.33 School Education (P1) Department dated 27.02.2011 and the subsequent proposal forwarded by the third respondent in Na.Ka.No.10602/A2/2006 dated 22.01.2007 and the subsequent representation submitted by the petitioner dated 24.11.2014 and consequently directing the respondents 1 to 4 to approve the appointment of the petitioner in the post of BT Assistant (Tamil) from the date of initial appointment based on the need in the 5th respondent school in the relevant year with all consequential and other attendant benefits including payment of arrears of salary, within a time frame to be fixed by this Honourable Court.

For Petitioner

:Mr.G.Sankaran

For Respondents

:Ms.P.Kavitha, Govt. Advocate

R1 to R4

(Education)

O R D E R

This writ petition has been filed, seeking direction to the respondents to consider the representation dated 24.01.2018, submitted by the Manager, R.C.M.School to the Joint Director of School Education regarding transfer of surplus teaching posts in favour of the fifth respondent school as per G.O.Ms.No.33, School Education (P1) Department dated 27.02.2011.

2. The brief facts leading to the filing of the writ petition is as follows. The primary / Middle schools upto 8th standard comes under the control of Elementary Education and if some of the middle schools under the Corporate management is upgraded as High / Higher Secondary School, the upgraded school would come under the control of School Education. In such an event, a surplus post in a Middle School of the Corporate Management cannot be transferred to the High / Higher Secondary School of the same management, since middle school comes under Elementary Education and High / Higher Secondary School comes under the School Education, both being different departments. In the said circumstances, G.O.Ms.No.33 dated 27.02.2001 provides for the procedure to be followed in case of transfer of surplus post from Primary/Elementary school to upgraded High/Higher Secondary school within the same management by originally surrendering the surplus posts to Elementary Education and thereafter on obtaining consent from High / Higher Secondary School in requirement of teaching posts, the post would be transferred to School Education Department and the Director of School Education is permitted to allot the post to needy school in the same management by ensuring required students strength in the concerned school.

3. The fifth respondent is one such upgraded Higher Secondary School coming under the RC Management, which was in need of four teaching posts in the category of BT Assistant and simultaneously there were 9 surplus posts in various primary schools run by the same RC management. The petitioner was appointed as BT Assistant (Tamil) in the fifth respondent school in 2006. The proposal recommending for transfer of surplus posts to the fifth respondent school was forwarded by the third respondent on 22.01.2007, but no further orders were passed by the second respondent. The grievance of the petitioner is that the appointment of the petitioner in the fifth respondent school can be approved only in the event of transfer of post to the fifth respondent school is ordered and hence the petitioner has filed the present writ petition.

4. Ms.P.Kavitha, learned Government Advocate (Education) takes notice on behalf of the respondents.

5. Considering the facts and circumstances of the case, this Court is of the view that it is not necessary to dwell into the merits of the issue, but it would be suffice to direct the respondents to consider the representation sent by the Manager, RCM School dated 24.01.2018, and pass orders thereon within a particular time frame.

6. Accordingly, this writ petition is disposed of directing the respondents to consider the representation sent by the Manager, RCM School dated 24.01.2018, and pass orders thereon, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

KST
To

1.The State of Tamil Nadu
rep.by its Principal Secretary to Government
School Education Department, Secretariat
Fort St.George, Chennai 600 009.

2.The Director of School Education
DPI Campus, College Road, Chennai-600 006.

3.The Chief Educational Officer
Thiruvannamalai District, Thiruvannamalai.

4.The District Educational Officer
Thiruvannamalai, Thiruvannamalai District.

+1 CC to Mr.G.Sankaran, Advocate sr 86658.

+1 CC to Govt. Pleader sr 86691.

W.P.No.32667 of 2018

RSI (CO)
SP(03/01/2019)