



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.02.2018**

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No. 3825 of 2018

and

W.M.P. (MD) . No. 3956 of 2018

R.Sumathi

.. Petitioner

Vs.

1. The Director of School Education,
College Road, Chennai - 600 006.

2. The Chief Educational Officer,
Ramanathapuram District.

3. The District Educational Officer,
Ramanathapuram District.

4.K.Ramar

5.R.Thamarai Manimala

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings issued by the third respondent District Educational Officer in Na.Ka.No.176/a.1/2018 dt.16.02.2018 (received on 21.02.2018) and the consequential relieving order of the fourth respondent in Na.ka.No. 49/2018 dt.20.02.2018 (received on 21.02.2018) in so far as transferring the petitioner from the present school viz., R.S. Government Higher Secondary School, Paramakudi, Ramanathapuram District to the Assistant Elementary Educational Office, Pogalur at Sathirakudi Ramanathapuram District and quash the same.

For Petitioner

: Ms.Amala

for M/s.Isaac Chambers

For Respondent Nos.1 to 3

: Mr.J.Gunaseelan Muthiah

Additional Government Pleader

**O R D E R**

Heard the learned Counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the Respondent Nos.1 to 3.

2.The petitioner was working as Record Clerk in R.S. Government Higher Secondary School, Paramakudi, Ramanathapuram. By the impugned order dated 16.02.2018, she has been transferred to the office of the Assistant Elementary Educational Officer, Pogalur at Sathirakudi, Ramanathapuram District. Pursuant to the order of transfer dated 16.02.2017, the Headmaster has issued impugned relieving order dated 20.02.2018. These orders are under challenge.

3.The learned counsel appearing for the petitioner would submit that the impugned orders have been passed for malafide consideration. She would place reliance on the decision of the Hon'ble Supreme Court reported in **(2009) 2 SCC 592 - (Somesh Tiwari vs, Union of India and others)** and the decision of this Court reported in **2015 (2) CWC 427 - (Dr.P.Santhi vs. The Government of Tami Nadu, rep. by its Secretary, Department of Higher Education and others)**. The learned counsel for the petitioner drew the attention of this Court to the contents of the typed set of papers.

4.The case of the petitioner is that the higher qualification acquired by her had to be entered in the Service Register. This was not complied with by the fourth respondent/Headmaster of R.S. Government Higher Secondary School, Paramakudi. The petitioner had alleged in her representation dated 30.01.2018 addressed to the District Educational Officer, Ramanathapuram District that because she lodged a complaint against the Head Master and other colleagues, the impugned order of transfer came to be passed.

5. The learned counsel appearing for the petitioner drew the attention of this Court to the letter dated 08.01.2018 submitted by the fourth respondent/Headmaster to the District Educational Officer, Paramakudi. The petitioner would also submit that she was not furnished with the copy of the same and she was not aware of the contents of the said complaint dated 08.01.2018. Since the said complaint had triggered passing of the impugned order, the case of the petitioner is that, the order should be characterised as one stigmatic and punitive in nature.

6. The learned counsel for the petitioner submitted that the *malafide* nature of the entire proceedings is further



reinforced by the fact that even before the impugned order of transfer was served on the petitioner, the fifth respondent herein had already joined as Record Clerk in R.S. Government Higher Secondary School, Paramakudi on 21.02.2018 at 09.00 A.M.

7. This Court is unable to agree with the submissions of the learned Counsel for the petitioner, for more reasons than one. A mere look at the material enclosed in the typed set of papers would show that the working atmosphere prevailing in R.S. Government Higher Secondary School, Paramakudi is not quite conducive. The petitioner is a women/widow. She levelled very serious allegations against the fourth respondent and she has sent a complaint to the District Educational Officer. Likewise the fourth respondent, probably to present his side has given a complaint. The third respondent being posted with all the relevant materials has thought it fit to transfer the petitioner herein to some other place to ensure that a conducive atmosphere prevails. The petitioner has been transferred to nearby place. If the petitioner is not feeling safe in the premises of R.S. Government Higher Secondary School, Paramakudi, she should welcome the move of transfer. The impugned order of transfer does not cast any stigma on the petitioner. This Court specifically clarifies that the impugned order would not cast any reflection on the petitioner's conduct.

8. Not much significance can be attached to the contention that the fifth respondent joined in the place of the petitioner even before the petitioner was served with the orders of transfer. The order dated 20.02.2018, passed by the fourth respondent relieving the petitioner states that the petitioner has been relieved on 20.02.2018 in the Forenoon itself. Therefore, no exception can be taken to the fact that the fifth respondent reported for duty on 21.02.2018 at 09.00 a.m. Transfer is an incident of service. The petitioner has been transferred to a very nearby place. More than anything else the petitioner is feeling very unsafe in R.S. Government Higher Secondary School. She cannot take exception to the fact that she has been transferred to the office of the District Educational Office, Pugalur at Sathirakudi. There is no merit in this Writ Petition and it stands dismissed. No costs. Consequently, W.M.P. (MD). No. 3956 of 2018 is closed.

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar



To:

1. The Director of School Education,
College Road, Chennai - 600 006.

2. The Chief Educational Officer,
Ramanathapuram District.

3. The District Educational Officer,
Ramanathapuram District.

+ 1 cc TO M/S.ISAAC CHAMBERS , Advocate in SR No. 51028

+ 1 cc TO The Special Government Pleader in SR No. 51609

Kmi

AE/RSK/SAR4/27.04.2018/4P/6C

ORDER MADE IN
W.P. (MD) No. 3825 of 2018
and
W.M.P. (MD) . No. 3956 of 2018
23.02.2018