



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 27.04.2018
CORAM :
THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

WEB COPY

W.P (MD) No.8910 of 2018
and
W.M.P. (MD) No.8309 of 2018

G.Arockia Rajasekar

... Petitioner

Vs.

- 1.The Director of Elementary Education,
D.P.I.Campus, college Road,
Chennai - 6.
 - 2.The District Elementary Educational Officer,
O/o.District Elementary Educational Officer,
Trichy District.
 - 3.The Assistant Elementary Educational Officer,
O/o.Assistant Elementary Educational Officer,
Musiri Union, Trichy District.
- ... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to transfer the petitioner from T.Aundipatti, Marungapuri Panchayat Union Primary School, Trichy District to any one of the school having vacancy at Musiri Union, Trichy District by considering the guidelines issued in letter Ms.No.92/S/09 dated 22.07.2009 and also under spouse quota.

For Petitioner : Mr.S.Arivalagan
For Respondents : Mr.K.Saravanan, G.A

O R D E R

The prayer sought for herein is for a Writ of Mandamus, directing the respondents to transfer the petitioner from T.Aundipatti, Marungapuri Panchayat Union Primary School, Trichy District to any one of the school having vacancy at Musiri Union, Trichy District by considering the guidelines issued in letter Ms.No.92/S/09 dated 22.07.2009 and also under spouse quota.

2.The learned counsel appearing for the petitioner would submit that the petitioner is a Secondary Grade Teacher working in a school at Marungapuri Panchayat Union of Trichy District. He is a physically challenged person and his physical disability is 75%



locomotive disability. Therefore, for all his personal needs, he has to necessarily depend upon his family members at any moment and therefore, considering his physical condition, if the petitioner is posted at his native place i.e. at Musiri Panchayat Union of the Trichy District, the petitioner can conveniently attend his duty.

3.The petitioner's further grievance is that the wife of the petitioner is also working in the same Musiri Panchayat Union and therefore, if the petitioner is considered to be posted in any of the vacant place in Musiri Panchayat Union, both the spouses can be joined together, which will greatly helpful to the petitioner, being the physically challenged person.

4.In this regard, even though request has been made by the petitioner, the same was not considered on the ground that there was no vacancy in the Musiri Panchayat Union. When that being the position, the petitioner once again requested the authorities, i.e. the respondents herein to consider his request for transfer to Musiri Panchayat Union on the ground that in Musiri Panchayat Union, one post of Secondary Grade Teacher became vacant at Ponnangannipatti Panchayat Union Primary School as the erstwhile incumbent one Sudha died on 21.10.2017 and the said post is yet to be filled up and the same is kept vacant. Therefore, the learned counsel for the petitioner would submit that in that circumstances, the petitioner's request can be considered by the respondents as forwarded by the third respondent vide his communication dated 28.12.2017.

5.I have heard the learned Government Advocate, who would submit that no doubt the petitioner is a physically challenged person with 75% locomotive disability and as per the Government policy, which is reflected in the circular in this regard issued by the Government, the physically challenged persons, wherever possible, can be accommodated in the native place or very near to their native place. However, guidelines issued in the said circular of the Government are subject to administrative contingency as well as the vacancy position.

6.In this regard, the learned Government Advocate would further submit that, insofar as the Musiri Panchayat Union is concerned, since there was no vacancy and in fact, it is over representations with number of Teachers working in that Union, the respondents were not able to accommodate the petitioner for quite sometime. However, since the petitioner now claims that there is a vacancy in a particular school i.e. Ponnangannipatti Panchayat Union Primary School because of the sudden death of one erstwhile incumbent, the said position would be verified by the authorities and if really, a vacancy is there, either in the said school or any other school in Musiri Panchayat Union, based on the vacancy,



the request of the petitioner would be considered by the respondents.

7. I have considered the said submissions made by both sides and also perused the materials placed before this Court.

8. The physical condition of the petitioner is not in dispute and the petitioner is working in Marungapuri Union, whereas, his spouse is working in Musiri Panchayat Union and that aspect is also not in dispute.

9. It is a policy of the Government to accommodate the physically challenged persons, wherever possible in the native place or in the nearby area to minimise the difficulties being faced by the said physically challenged persons. However as has been rightly pointed by the learned Government Advocate, the said gesture can be shown subject to the administrative contingency as well as the vacancy position. However, in this case, since the petitioner has specified that there is a vacancy in a particular place called Ponnangannipatti Panchayat Union Primary School as one Secondary Grade Teacher post became vacant because of the death of the erstwhile incumbent as early as on 21.10.2017 and the said post, according to the petitioner, still has not been filled up by the authorities and the petitioner also has given willingness to be transferred to Musiri Panchayat Union and his application also having been forwarded by the third respondent vide his proceedings dated 28.12.2017 and the learned Government Advocate also has submitted that if any vacancy is really available in Musiri Panchayat Union, certainly, the request of the petitioner would be considered. Therefore, this Court is of the view that a direction can be given to the respondents to that effect to consider the request of the petitioner for accommodating him by way of transfer either to the place on which, according to the petitioner is vacant, or any other school in the said Union viz., Musiri Panchayat Union, where the vacancy is available or it arise in the near future.

10. In the result, this writ petition is disposed of with the following direction:

"The respondents are directed to consider the request of the petitioner as has been forwarded by the third respondent vide his proceedings dated 28.12.2017 for the purpose of transferring and accommodating the petitioner either at Ponnangannipatti Panchayat Union Primary School, if the vacancy is still available or any other school in the same Union i.e. Musiri Panchayat Union, Trichy District, where any vacancies are available as of now and an order to that effect can be passed, . If the vacancy is available as of now, the



needful shall be done by the respondents, within a period of two months from the date of receipt of a copy of this order and if even no single vacancy is available in the Musiri Panchayat Union, the request of the petitioner shall be kept pending and whenever, even a single vacancy arises, the petitioner's request shall be considered and an order to that effect shall be passed by the respondents. "

11. With this direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/
Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

- 1.The Director of Elementary Education,
D.P.I.Campus, college Road,
Chennai - 6.
- 2.The District Elementary Educational Officer,
O/o.District Elementary Educational Officer,
Trichy District.
- 3.The Assistant Elementary Educational Officer,
O/o.Assistant Elementary Educational Officer,
Musiri Union, Trichy District.

+1cc to Mr.S.ARIVALAGAN, Advocate, SR.No.63887
+1cc to M/s.Special Government Pleader,SR.No.64507

W.P(MD)No.8910 of 2018
and
W.M.P. (MD) No.8309 of 2018
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KK/SKN RSK/SAR-1/08.06.2018/4P-6C