



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.09.2018

C O R A M

WEB COPY

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.17956 of 2018

and

W.M.P. (MD) Nos.15839 to 15841 of 2018

L.Reeta Mary

... Petitioner

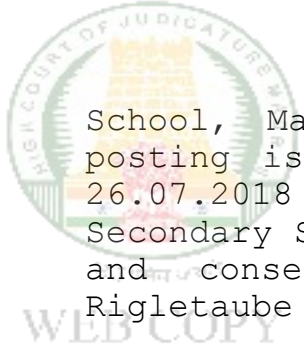
Vs.

- 1.The Chief Educational Officer,
Nagercoil,
Kanyakumari District.
- 2.The District Educational Officer,
Nagercoil / Kuzhithurai,
Kanyakumari District.
- 3.The Moderator and Bishop,
CSI Kanyakumari Diocese,
No.71-A, Dennis Street,
Nagercoil-629 001,
Agastheeswaram Taluk,
Kanyakumari District.
- 4.The Administrative Seceretary,
CSI Kanyakumari Diocese,
No.71-A, Dennis Street,
Nagercoil-629 001,
Agastheeswaram Taluk,
Kanyakumari District.
- 5.The Corporate Manager,
Diocesan Office,
No.71-A, Dennis Street,
Nagercoil-629 001,
Agastheeswaran Taluk,
Kanyakumari District.

6.C.Jeya Thangaa

... Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned transfer order issued by the 5th respondent in proceedings No.CM26 A/2018-2019, dated 30.07.2018 transferring the petitioner from the post of Headmistress of Ringletaube Higher Secondary School, Mylaudy to Headmistress of LMS High Secondary



School, Mathikodu, Kanyakumari District and consequent order of posting issued by the 5th respondent in CM 27 A/2018-2019, dated 26.07.2018 in favour of 6th respondent as Headmistress of LMS High Secondary School, Mathikodu, Kanyakumari District and quash the same and consequently restore the petitioner as Headmistress of Ringletaube Higher Secondary School, Mylaudy, Kanyakumari District.

For Petitioner : Mr.K.Govindarajan
 For R1 and R2 : Mr.S.Srimathy
 Special Government Pleader
 For R3 and R4 : Mr.F.Deepak
 For R6 : Mr.T.Chandrasekaran
 For R5 : No Appearance

O R D E R

The petitioner has come forward with the present writ petition challenging the order of transfer dated 30.07.2018, which is said to have been passed by the fifth respondent based on the decision of the Special Administrative Committee dated 26.07.2018.

2. According to the petitioner, the petitioner is working as Headmistress in Ringletaube Higher Secondary School, Mylaudy, Kanyakumari and she is at the verge of retirement. While so, on 30.07.2018, the petitioner was issued with an order of transfer and the sixth respondent herein, who has been working as P.G.Assitant (Physics) in the very same School was promoted as Headmistress in the place of the petitioner and retained in the same School. Challenging the said transfer order, the petitioner has come forward with this present writ petition.

3. The contention of the petitioner is that no resolution has been passed with regard to Administrative transfer and though the sixth respondent has got more than one years of service and could be accommodated in a different School, the petitioner, who is about to retire in the month of June, 2019 has been disturbed and transferred to some other School with mala fide intention.

4. When the matter is taken up for hearing, the learned counsel appearing for the School would submit that even though it was decided to transfer the petitioner, no decision was taken in the Committee meeting dated 26.07.2018 with regard to transfer of the petitioner. Therefore, as no final decision was taken, they are willing to abide by the orders to be passed by this Court.

5. At this juncture, the learned counsel appearing for the third respondent would fairly submit that there is a possibility of conducting election and shifting of tis members and therefore, he prays for allowing the writ petition.

6. The learned counsel for the sixth respondent would submit that she was already promoted and has been working in the third



respondent School and therefore, she could not be disturbed.

7. Heard the learned counsel on either side.

8. As per G.O.Ms.No.10, Personnel and Administrative Reforms (Per.S) Department, dated 07.01.1994, a person, who completed three years of service in a station, shall not be transferred to another station, if the person is about to retire within one year or less. In the light of the Government Order, this Court is of the view that the petitioner shall be retained in the same School, since she is at the verge of retirement.

9. It is also worthwhile to refer to Clause (i), Annexure I of Letter No.23847/S/98/1 dated 05.08.1998, which stipulates as under:-

"(i) As as a general policy, all transfers due shall be effected only during the 'transfer period' namely, between the 1st April and the 31st May, every year (Govt.Lr.No.50365/S/96-1, P & A.R. Dept., dt. 07.10.1996). However, all transfer proposals, including transfers 'on won request' to vacant posts and mutual transfers may be processed and kept ready for issue of orders towards the end of, or immediately after the close of each financial year. In cases where orders of transfer are to be issued by the Government under normal procedure, the Heads of Departments should send proposals sufficiently in advance so as to effect the transfers during the transfer period."

10. In the light of the forgoing discussions and considering the fact that the petitioner is about to retire by June, 2019 and also taking into account the fact that no resolution has been passed in the Administrative Committee Meeting dated 26.07.2018, this Court is inclined to quash the transfer order.

11. Accordingly, the writ petition is allowed and the impugned order of transfer dated 30.07.2018 is hereby quashed. There shall be a direction to the concerned respondent to retain the petitioner in the same School till her retirement. Till such time the sixth respondent shall be accommodated in the School, where the petitioner was proposed to be transferred. The third respondent School shall utilize the services of the sixth respondent after the retirement of the petitioner, if they so wish. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar (CS-II)



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+3cc to Mr.F.Deepak, Advocate in SR No.84505,84611
+1cc to Spl Government Pleader, SR No.84730

W.P. (MD) No.17956 of 2018

NM/SKN/SAR 2/03.10.18/4P/10C