

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Monday, the Twenty Ninth day of April Two Thousand Nineteen

PRESENT

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

WMP No.7856 of 2019

in WP No.30532 of 2018

1 THE DIRECTOR OF ELEMENTARY [PETITIONERS]
EDUCATION, DPI CAMPUS,
COLLEGE ROAD, CHENNAI 600 006.

2 THE CHIEF EDUCATIONAL OFFICER
VILLUPURAM DISTRICT, VILLUPURAM,

3 THE DISTRICT EDUCATIONAL OFFICER,
GINGEE, VILLUPPURAM DISTRICT,
VILLUPURAM.

4 THE BLOCK EDUCATIONAL OFFICER,
GINGEE BLOCK, VILUPURAM DISTRICT.

Vs

A.VANITHA [RESPONDENT]
HEAD MISTER, PANCHAYAT
UNION MIDDLE SCHOOL TALAPATTI VILLAGE,
GINGEE PANCHAYAT UNION
VILLUPURAM DISTRICT.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to vacate the Status quo granted by this Hon'ble Court in WMP No.35615 of 2018 in WP No.30532 of 2018 dated 20.11.2018 pending WP.No.30532 of 2018.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MRS.P.KAVITHA GOVT.ADVOCATE, for the petitioner and of MRS.DAKSHAYANI REDDY on behalf of the Respondent the court made the following order:-

The order dated 09.11.2018, deploying the writ petitioner as Secondary Grade Teacher, Government Primary Aided School,
<https://hcservices.ecourts.gov.in/hcservices/>

Thanikalampattu, Mugaiyur Union Tirukoilur Educational District is under challenge in the present writ petition.

2.The facts in nutshell for the purpose of considering the petition is that the writ petitioner was initially appointed as Secondary Grade Teacher in Athiyur Aided Primary School, during the year 2008 and even before completion of her probation, she was promoted to the post of Headmistress during the year 2009. The School at Athiyur lost students strength and pursuant to the same, a decision has been taken to deploy the staff members to any other school. Accordingly, the writ petitioner was initially transferred to the Government Primary Aided School, Thanikalampattu, Mugaiyur Union, Tirukoilur Educational District.

3.The learned counsel appearing on behalf of the writ petitioner mainly contended that Section 26 of the Tamil Nadu Private Schools (Regulations) Act, 1973 states that the teachers can be deployed either to another Aided School or to the Government School. In the present case, the writ petitioner was already deployed in the Government School at and therefore, again redeployed her to Government Primary Aided School, Thanikalampattu, Mugaiyur Union Tirukoilur Educational District is unnecessary.

4.Relying on Section 26, the learned Counsel for the writ petitioner submitted that there is no necessity to redeploy the writ petitioner to Mugaiyur Union.

5.The learned Government Advocate appearing on behalf of the respondent disputed the contentions by stating that as per Rule 26 of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973, whenever the strength of pupils reduced and there is no scope for the improvement of strength of pupils and the school is defunct of an aided school, the teachers employed therein are appointed in another aided school, in accordance with the said Rule. The Petitioner and the Head Mistress employed in that aided school are to be appointed in the needy aided school. It is contended that the services of the writ petitioner has not been disturbed and she has been now posted as Secondary Grade Teacher, Government Primary Aided School, Thanikalampattu, Mugaiyur Union Tirukoilur Educational District, with pay protection.

6.This Court is of the considered opinion that undoubtedly, Section 26 of the Act, states that a teacher who was declared as surplus can be accommodated in any school maintained by the Government or any such private school as the case may be. Looking into the spirit of the provision, it is unambiguous that it is the discretion of the Competent Authorities to accommodate the teachers, who were declared as surplus in any one of the schools according to the administrative need and necessities.

7.The learned Government Advocate states that the statistics states that already there are many number of surplus candidates awaiting for the regular posts in Government Schools. This apart, large number of surplus teachers are waiting for postings in

Private Aided Schools also. When large number of teachers and other staffs are waiting for other postings for want of adequate vacancies, the grievances of the writ petitioner is redressed by posting her at Government Primary Aided School, Thanikalampattu, Mugaiyur Union Tirukoilur Educational District with Pay Protection.

8.This Court is of the considered opinion that undoubtedly, the writ petitioner was initially treated as surplus, on account of the fact that there was no adequate students strength in the original Private Aided School, wherein the writ petitioner was appointed during the year 2008. The writ petitioner was promoted as Headmistress during the year 2009. The students of the school were shifted to other nearby Government Schools. Subsequently, the writ petitioner was posted in Government School on deputation at Talapatti. The very fact remains that the writ petitioner was posted on deputation to Government School. The Government authorities are to re-deploy the teacher in a regular vacancy, wherever it arises and the fact remains that the posting of the writ petitioner to the Government School at Talapatti was on deputation for a temporary period and soon after a vacancy was identified in Government Primary Aided School, Thanikalampattu, Mugaiyur Union Tirukoilur Educational District she was accommodated on regular basis in the said school with pay protection.

9.This Court is of the considered opinion that the writ petitioner has no grievance as the service of the writ petitioner is already protected. Place or post can never be claimed as a matter of choice. The grievances of the employees in respect of violation of the service conditions alone are to be dealt with in accordance with law. Undoubtedly, the writ petitioner was appointed in a school, where there was no strength. Subsequently, she was deputed to Government School on temporary basis. Deputation would not confer any right on the writ petitioner to claim permanent continuance in the Government School and the authorities competent subsequently redeployed the writ petitioner on regular basis in the available vacancy at Government Primary Aided School, Thanikalampattu, Mugaiyur Union Tirukoilur Educational District. This being the factum, this Court is of the considered opinion that the grievances of the writ petitioner has been redressed. The writ petitioner may not seek any direction to retain her in a particular post or place. If an administrative need arises, even thereafter also, the writ petitioner can be transferred to another post at another place. Once, the appointment of the writ petitioner was approved and when they started receiving the Government salary, they are bound by rules in force and accordingly, they are liable to be transferred, if the school did not have adequate students strength. Therefore, treating a teacher as surplus itself is an administrative exigency, which all are addressed and redressed by the Competent Authority and the right of the teacher is only in respect of the service protection as well as the protections given in respect of the salary and other perquisites.

10.This being the principles to be followed, the writ petitioner is at liberty to work as Secondary Grade Teacher with pay protection in Government Primary Aided School, Thanikalampattu, Mugaiyur Union Tirukoilur Educational District.

11.In this view of the matter, the continuance of interim order would certainly cause inconvenience to the public administration as the writ petitioner cannot be allowed to continue on deputation basis for an unspecified period. Accordingly, the interim order passed in W.M.P.No.35615 of 2018, in W.P.No.30532 of 2018 dated 20.11.2018 stands vacated and the Vacate Stay Petition stands allowed.

-sd/-
29/04/2019

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE DIRECTOR OF ELEMENTARY
EDUCATION, DPI CAMPUS,
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The Government Advocate, High Court, Madras - 104.

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Order

in
WMP.7856/2019

in WP.30532/2018

Date :29/04/2019

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