

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.12936 of 2019

K.V.K.Somasundaram

.. Petitioner

Vs.

1. The Principal Secretary to Government
School Education Department
Secretariate,
Chennai-600 009.
2. The Joint Director(Personal),
School Education Department,
Directorate of School Education
College Road,
DPI Complex,
Chennai-600 006.
3. The Chief Educational Officer,
Chief Educational Office,
Tiruvannamalai-606 601.
Tiruvannamalai District.
4. The District Educational Officer,
District Educational Office,
Government Boys Higher Secondary School,
Arani-632 301,
Tiruvannamalai District.

.. Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus to direct the 2nd respondent to consider the petitioner's representation dated 07.02.2019 and to direct the 2nd respondent to permit the petitioner to continue in the service as Junior Assistant in the very same Education Department.

For Petitioner : Mr.S.Susila Devi

For Respondents : Ms.V.Annalakshmi
Government Advocate.

O R D E R

The relief sought for in the present writ petition is for a direction to the second respondent to consider the petitioner's representation dated 07.02.2019 and to direct the second respondent to permit the petitioner to continue in the service as Junior Assistant in the very same Education Department.

2. The writ petitioner is now working as Junior Assistant in the District Educational Office at Arani.

3. The grievance of the writ petitioner is that the petitioner was appointed during strike period, on temporary basis. The writ petitioner was a temporary employee in the post of Junior Assistant on consolidated pay. The grievance of the writ petitioner is that he is going to be transferred to another place and in the event of transfer, his normal life will be affected. The writ petitioner states that he is serving in the department as Junior Assistant on consolidated pay from 09.07.2003 onwards, and thereafter, he was serving as District Elementary Education Office at Thiruvannamalai. Now, he is working at Thiruvannamalai and in the event of transfer he will not be in a position to shift his family. The petitioner states that he is aged about 53 years and having 4 ½ years of service. Thus, the transfer order will affect his family life. The earlier writ petition filed by the writ petitioner in W.P.No.4727 of 2011 was rejected by this Court on 11.10.2018. The earlier writ petition was filed for a relief to direct the respondents to re-allot the writ petitioner in the Assistant Elementary Educational Office.

4. This Court is of the considered opinion that the writ petitioner being appointed as a temporary appointee on a consolidated pay, he has no right to claim post or place as a matter of choice. Such elementary employees are engaged in order to complete certain emergency works and continuing such employees for an unspecified period is also certainly impermissible. Regularisation and permanent absorption cannot be granted in violation of the recruitment rules in force. This being the principles to be followed, a direction to consider the representation cannot be granted, in the event of not establishing a legal right in the present writ petition. In other words, there is a pre-condition to entertain a writ petition that the person who is approaching the High Court has to establish a legal right.

5. In the present case on hand, the writ petitioner has not established even a semblance of legal right so as to consider the relief as such, sought for in the present writ petition. Thus, in case of transfer, the writ petitioner cannot raise any grievance. It is left open to him to join in the post wherever he is directed to work or otherwise, he can take a decision whether to continue in the temporary employment or not.

6. With these observations, the writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

ssb

To

1. The Principal Secretary to Government
School Education Department
Secretariate,
Chennai-600 009.
2. The Joint Director(Personal),
School Education Department,
Directorate of School Education
College Road,
DPI Complex,
Chennai-600 006.
3. The Chief Educational Officer,
Chief Educational Office,
Tiruvannamalai-606 601.
Tiruvannamalai District.
4. The District Educational Officer,
District Educational Office,
Government Boys Higher Secondary School,
Arani-632 301,
Tiruvannamalai District.

+1cc to Mr.S.Susila Devi, Advocate SR.No.42087

+1cc to Government Pleader SR.No.42559

W.P.No.12936 of 2019

GJ(CO)
GMY(24/06/2019)