

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.19805 of 2019

and WMP.No.19330 of 2019

S.Antony Amala Nithya

.. Petitioner

vs

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

2.The District Educational Officer,
Avadi, Chennai 600 054.

.. Respondents

Prayer.: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to permit the petitioner to participate in the general counseling to be held on 08.07.2019 onwards by considering the petitioner's application dated 27.06.2019.

For Petitioner : Mr.P.Ganesan
For Respondents : Mr.A.Rajaperumal
Addl.Govt.Pleader.

O R D E R

The petitioner, a Secondary Grade Teacher has filed the present writ petition challenging the G.O.(ID)No.218 School Education Department on the ground that there was arbitrariness regarding conducting general counselling for transferring the Teachers from one School to another School including the Teachers working in the Corporation and Municipality Middle School, Higher Secondary School. Challenging the Scheme framed in the above said G.O. the present writ petition has been filed.

2. The learned counsel for the petitioner would submit that challenging the very same G.O., writ petitions were filed before the Madurai Bench of this Court in W.P.Nos.14188 of 2019 and etc batch and the Madurai Bench of this Court has passed a detailed order in the said batch on 27.08.2019 and issued certain directions to the Government. He would further submit that similar order may be passed in this writ petition also.

3. The learned Additional Government Pleader would submit that the respondents-Government accepted the recommendation made in the decision in respect of paragraph -17 of the above said order and undertakes to follow the directions issued by the Madurai Bench of this Court.

4. This Court also perused the above decision and heard the submissions made on either side. The very same prayer has been dealt with in the batch of writ petitions in W.P.Nos.14188 of 2019 and etc batch dated 27.08.2019 by the Madurai Bench of this Court. It is useful to extract hereunder the relevant paragraph No.17 of the above order:-

" 17. Therefore, in the interest of justice, this Court is inclined to modify the condition 9(i) of the G.O(1D).No.218 School Education [Pa.Ka.5(1)] Department dated 20.06.2019 and Clause (10), omitting the relaxation available to the physically disabled candidates, with the following directions:

i) The petitioners, who are all coming under the categories of deployment or by promotions for the academic year 2018-2019, not completing one year of service in the present working place, are entitled to attend the General Transfer Counselling to be held for this academic year 2019-20, provided they have not attended the General Transfer Counselling prior to 1.6.2019 as per the impugned order passed by the respondent.

ii) The petitioners, who are all coming under the categories of deployment or by promotions for the academic year 2017-2018, not completing one year of service in the present working place as on 1.6.2018, are entitled to attend the General Transfer Counselling to be held for this academic year 2019-20, provided they have not attended the General Transfer Counselling prior to 1.6.2019 as per the impugned order passed by the respondent.

iii) Clause 10 of the impugned order relates to priority category, the Secretary to Government is directed to pass appropriate orders, in view of letter No.21787/SE5 (1) 2019-1, dated 26.8.2019, School Education Department, Secretariat, Chennai -9, within a

period of two weeks from the date of receipt of a copy of this order.

iv) If any of the writ petitioners have not submitted their applications so far to seek their remedy, they are at liberty to submit their applications before the appropriate authority within a period of one week from the date of receipt of a copy of this order. This order is applicable only to the writ petitioners herein.

v) In the light of the aforesaid order, after receiving such applications from the writ petitioners, the authority concerned shall permit the writ petitioners to the forthcoming General Transfer Counselling for the academic year 2019-20, if they are otherwise eligible."

In view of the above, this Court directs to extend the same benefit to the petitioner herein. Accordingly, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Kkd

03/10/2019

For Clarification

This Writ petition coming on for hearing on 07.11.2019, Thursday, 7th day of November 2019 under the caption "FOR CLARIFICATION" in pursuance to the order of this Court dated 03.10.2019 and made herein in the presence of Mr.P.Ganesan, for M/s.C.S. Associates and Mr.A.Rajaperumal, Additional Government Pleader, on behalf of the Respondents, the Court made the following order:-

Today(07.11.2019), this writ petition is taken up for hearing under the caption "for clarification".

2.The petitioner had acquired Diploma in Teacher Education in the year 2002 and M.A., Degree in the year 2012. The petitioner was appointed as Secondary Grade Teacher on 12.10.2004 in the Peravurani panchayat Union, Thanjavur District and Pattukottai Panchayat Union, Thanjavur District. The petitioner was granted selection grade on 01.06.2016. The petitioner was transferred and posted at Melmanambedu, Poonamallee Block on 09.07.2008 and later transferred to Varadharajapuram and after several transfers, on 11.01.2019, she was posted at Parivakkam Panchayat Union Middle school where Anganwadi Centre is functioning. Meanwhile, the Government issued transfer guideline in G.O.(1D) No.218, School Education

Department, dated 20.06.2019, wherein the teachers can opt for transfer during general transfer counseling and they have to apply in online for transfer. Till the last year, the Government followed rule that a person who worked for one year in the transferred place is eligible for transfer. But in this year, the prescribed minimum service is raised to 3 years. The petitioner submits that since the petitioner has been transferred on the ground of surplus, the same will not be applicable to the petitioner. This writ petition has been filed to direct the respondent to consider the petitioner's application dated 27.06.2019.

3.The learned Additional Government Pleader would submit that the petitioner's application for transfer dated 27.06.2019 will be considered within a period of 12 weeks.

4.Considering the facts and circumstances of the case and the limited request made by the learned counsel for the petitioner, I am inclined to issue direction to the respondents to dispose of the petitioner's representation dated 27.06.2019, if not disposed already within a period of twelve (12) weeks from the date of receipt of a copy of this order. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Pnn

07.11.2019

Sd/-

Assistant Registrar(CO)

// True Copy//

Sub Assistant Registrar

To

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

2.The District Educational Officer,
Avadi, Chennai 600 054.

+1cc to Mr.P.Ganesan, Advocate, SR.No.92738.

+1cc to Government Pleader, SR.No.93347.

W.P.No.19805 of 2019
and WMP.No.19330 of 2019

PPA (CO)

CSR: 24/02/2020