

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.30928 OF 2019

AND

WMP NOS.31019 & 31020 OF 2019

P.Bharathi

... Petitioner

Vs.

1. State of Taminadu,
rep. by its Principal Secretary,
Department of School Education,
Fort St. George,
Chennai-9.
2. The Director of School Education,
O/o. The Director of School Education,
DPI Campus,
Chennai-6
3. The Joint Director of School Education(Higher Secondary),
O/o.The Joint Director of School Education(Higher Secondary),
DPI Campus,
Chennai-6
4. The Chief Educational Officer,
O/o. The Chief Educational Officer,
Cuddalore District,
Cuddalore.
5. The District Educational Officer,
O/o.The District Educational Officer,
Virudhachalam, Cuddalore District.

... Respondents

Prayer:

Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the entire records connected with the impugned G.O.(ID) No.218, School Education Pa.Ka.5(1) Department dated 20.06.2019 issued by the first respondent so far as clause 9(i) which contains a condition of 3 years service in the same school to participate in the counselling for transfer of

Teachers/Headmistress is concerned and quash the same, consequently directing the respondents to permit the petitioner to participate in the counselling for transfer to be held in the academic year 2019-20.

For Petitioner : Mr.G.Balamanikandan

For Respondents : Mr.C.Munusamy, Spl. GP

COMMON ORDER

This writ petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus to call for the entire records connected with the impugned G.O.(ID) No.218, School Education Pa.Ka.5(1) Department dated 20.06.2019 issued by the first respondent so far as clause 9(i) which contains a condition of 3 years service in the same school to participate in the counselling for transfer of Teachers/Headmistress is concerned and quash the same, consequently directing the respondents to permit the petitioners to participate in the counselling for transfer to be held in the academic year 2019-20.

2.The petitioner herein is working as Teacher in GB Higher Secondary School, Palapatty, Namakkal District and he was promoted as Headmaster of Government High School, Kuppicipalayam, Namakkal District in the counselling for promotion held on 02.08.2019. According to the petitioner, he was under impression that he could not participate in the counselling for transfer which generally held during the month June/July every year and seek transfer to the place of their choice. The grievance of the petitioners is that since a condition was prescribed in Clause 9(i) of G.O.(ID) No.218, School Education Pa.Ka.5(1) Department dated 20.06.2019 stipulating that the person who has not completed 3 years of service in the transferred place are not eligible to participate in the counselling for transfer. Challenging the same, the present writ petition has been filed by the petitioner.

3.The issue involved in this writ petition has already been decided by the Madurai Bench of this Court in similar writ petitions in W.P.(MD)Nos.14188, 14189 of 2019 etc batch, wherein, the very same Government Order i.e., G.O.(ID) No.218, School Education Pa.Ka.5(1) Department dated 20.06.2019 has been challenged insofar as condition prescribed in Clause 9(i) therein by order dated 27.08.2019. The Madurai Bench of this Court has held in paragraphs nos.15 to 18, which are extracted below:

'15. It is revealed from the entire records that the petitioners are employed as Teachers in the respective Schools and were posted by deployment

or by promotion in the respective school in the academic year 2017-18 and 2018-2019. According to the petitioners, vide G.O(1D). No.218 School Education [Pa.Ka.5(1)] Department, dated 20.06.2019, the rights of the petitioners were deprived of from attending the General Transfer Counselling scheduled to be held for the academic year, 2019-20. However, as per Clause 4 and 5 of G.O.(1D) No.256, School Education Department dated 19.04.2017, the persons who have joined prior to 01.06.2016 alone are eligible to attend the General Transfer Counselling for the academic year 2017-18. However, the persons, who are all appointed by way of promotion or by way of deployment in the academic year 2016-17 are also eligible to attend the General Transfer Counselling for the academic year 2017-18. But, the condition 9(1) of impugned Government Order, stipulates that the persons, who are all appointed under the category of deployment or by promotion for the academic year 2017-18 are not eligible to attend the present General Transfer Counselling for the academic year 2019-20 and they are eligible to attend the General Transfer Counselling for the academic year 2020-21, on completing three years of service in the same station.

16. Similarly, for the academic year 2018-19, General Transfer Counselling was conducted in the month of June, 2018, and thereafter, promotion and deployment orders have been issued to respective teachers. Hence, they are not eligible to attend the General Transfer Counselling for the academic year 2019-20 and eligible to attend the General Transfer Counselling for the academic year 2021-22 only, as per the impugned Government Order, dated 20.06.2019. In the previous years, the persons, who are all coming under the aforesaid Categories, as stated above, were given one year exemption to attend the General Transfer Counselling. However, in the present impugned Government Order, one year exemption was not given to the aforesaid Categories and the condition of three years of service in the same station is applicable to all the teachers, irrespective of the priority category and the aforesaid categories as mentioned in earlier paragraphs. Therefore, the rights of the petitioners were deprived of and hence, the petitioners could not participate in the general

transfer counselling for this academic year.

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.

18. It is made clear that this order is applicable for the General Transfer Counselling to be conducted for this academic year, 2019-20 alone and the same is not a precedent in future. These writ petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.'

4. Having regard to the above, this Court is of the view that the above said order will hold good to the present writ petition also. Accordingly, this writ petition is disposed of, on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

jrs

To

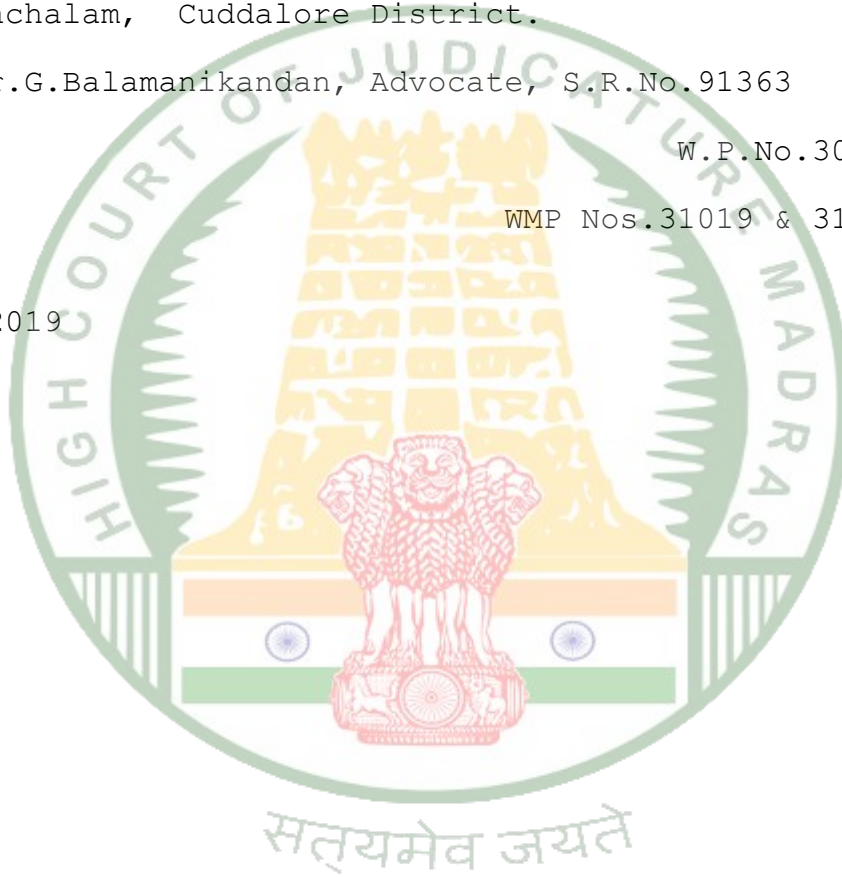
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+1cc to Mr.G.Balamanikandan, Advocate, S.R.No.91363

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PPA(CO)
CS/02/12/2019



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