



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **21.08.2019**

CORAM:

THE HONOURABLE MR.JUSTICE **D. KRISHNAKUMAR**

WP(MD)Nos.15594, 15595, 15596, 15600 and 15601 of 2019 and
WMP(MD).Nos. 12280, 12283, 12285, 12289 and 12291 of 2019 in WP(MD).
Nos.15594 to 15596, 15600 and 15601 of 2019

R. Jansirani	... Petitioner in WP(MD).No. 15594 of 2019
C.Kanagasundaram	... Petitioner in WP(MD).No. 15595 of 2019
M.Gowri	... Petitioner in WP(MD).No. 15596 of 2019
N. Nageswari	... Petitioner in WP(MD).No. 15600 of 2019
T. Mahalakshmi	... Petitioner in WP(MD).No. 15601 of 2019

Vs.

- 1.The Director of Elementary Eduation,
DPI Campus, College Road,
Nungambakkam, Chennai - 600 006.
- 2.The Chief Educational Officer,
Trichy.
- 3.The District Educational Officer,
Lalgudi, Trichy District.
- 4.The Block Educational Officer,
Thuraiyur, Trichy District. ... Respondents 1 to 4 in all W.Ps.
- 5.The Headmaster,
Panchayat Union Elementary School,
Sengattuppatti, Thuraiyur Union,
Trichy District. ... 5th Respondent in WP(MD).No.15594/2019
- 5.The Headmaster,
Panchayat Union Elementary School,
Naduvalur, Thuraiyur Union,
Trichy District. ... 5th Respondent in WP(MD).No.15595/2019
- 5.The Headmaster,
Panchayat Union Elementary School,
Keerambur, Thuraiyur Union,
Trichy District. ... 5th Respondent in WP(MD).No.15596/2019



5.The Headmaster,
Panchayat Union Elementary School,
Melakunnuppatti, Thuraiyur Union,
Trichy District. ... 5th Respondent in WP(MD).No.15600/2019

5.The Headmaster,
Panchayat Union Elementary School,
Sengattupatti, Thuraiyur Union,
Trichy District. ... 5th Respondent in WP(MD).No.15601/2019

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, forbearing the respondents 1 to 4 from deploying the petitioners to another union for want of vacancy without deploying the junior most teachers in the union.

For Petitioners in all W.Ps. : Mr. M. Saravanan

For Respondents in all W.Ps. : Mrs. S. Srimathy

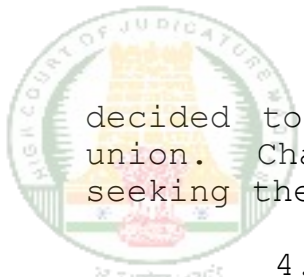
Special Govt. Pleader

COMMON ORDER

These Writ Petitions have been filed for issuance of a Writ of Mandamus, forbearing the respondents 1 to 4 from deploying the petitioners to another union for want of vacancy without deploying the junior most teachers in the union.

2. According to the petitioners, they have joined in the services of the second respondent education department in Trichy District and their services are governed by the Special Rules for Tamil Nadu Elementary Educational Subordinate Service. As per Rule 9, Panchayat Union is the basic unit and Block Educational Officer will be the officer in-charge of the same. Seniority of teachers in each category will be maintained in union level and senior most person will be promoted to the next available higher post within the union. When the teachers are transferred to another union, they will be treated as junior most person in the transferee union and they will lose their seniority. Rule 9 clearly says that for all purpose including appointment, discharge or re-appointment, union will be the basic unit.

3. According to the petitioners, they joined in the 4th respondent union on 06.07.2004, 06.07.2004, 01.06.2004, 02.06.2009 and 05.06.2008 respectively by foregoing their past services for the purpose of seniority. They have been discharging their duties with utmost seniority and devotion. As per the seniority list published by the respondents 3 and 4, the petitioners were placed as S.Nos.81, 55, 52, 89 and 86 respectively and in their union 117 Secondary Grade Teachers are working and out of them, more than 36 teachers, 62, 65, 28 and 31 teachers are juniors to the respective writ petitioners. While so, on 08.07.2019, the 4th respondent has orally informed that as per the student-pupil ratio taken on 01.08.2018, there are 11 surplus teachers in the union and therefore, they



decided to deploy 11 teachers including the petitioners to other union. Challenging the same, the petitioners are before this Court seeking the aforesaid relief.

4. The learned Special Government Pleader appearing for the respondents, based on the counter in all the writ petitions, submitted that deployment is not a transfer, but adjusting the inequalities of teachers in schools. The aforesaid deployment process is followed as per the Government Orders in G.O.Ms.217, School Education (SE5(1) Department, dated 20.06.2019 and the proceedings of Director of Elementary Education, Chennai in R.C.No. 22725/C1/2018, dated 27.06.2019. According to the respondents, the staff fixation is being done every year according to the strength of students as on 1st August of the academic year. Likewise staff fixation for the academic year 2018-19 was done according to the students' strength of the school as on 1st August 2018 vide Government orders and Director's proceedings. It is further submitted that pupil and teachers ratio is fixed as per the Right to Education Rules and Government orders, which reads as under:

Standard	Student Strength	Eligible Teachers
1 st std to 5 th std	Up to 60	2 teachers
	60 to 90	3 Teachers
	91 to 120	4 Teachers
	121 to 200	5 Teachers
6 th std to 8 th std in Elementary Segment	1 Teacher for 1 Section (3 Teachers)	Upto 35 -1 Teacher For Every 35 Students 1 Teacher each

5. As per G.O.Ms.No.217 School Education (SE 5(1) Department, dated 20.06.2019 and Proceedings of Director of Elementary Education, Chennai in R.C.No. 22725 / C1/ 2018, dated 27.06.2019, relevant instructions have been issued to the concerned Education authorities, which read as follows:

- Strength of the student in school is identified as on 01.08.2018 and EMIS entry of the schools.
- Staff fixation vide Government orders and proceedings were done.
- Identifying the surplus teachers in every school as on 01.08.2018.
- Identifying the needy schools and vacancies of teachers in schools.
- Identifying Blind teachers and physically challenged teachers, widows, Spinsters, Wives of Ex-serviceman, Heard transplanted teachers and Teachers having disabled wards were identified.
- Identifying the needy schools as per strength and vacancies of teachers in schools.



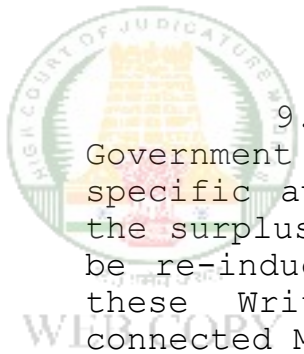
- The surplus teachers in all schools were arranged as per seniority of the teachers as per education rules prescribed in Tamil Nadu Elementary Educational Subordinate Service as per Para 9 of the Rules.

6. According to the respondents, the deployment procedure was systematically followed and surplus teachers of the school were identified, synchronized and as per the seniority, the teachers are being deployed by following the counseling procedures, prescribed in Government Orders and Directors Proceedings. Further, in support of their contention, the respondents have relied upon the order of this Court in WP(MD).Nos.16078 and 16079 of 2016, dated 29.08.2016, wherein it is stated as under:

"Whenever the school found with surplus teachers, such teachers are being transferred to some other schools, where they are required, in the interest of the students, therefore, this Court cannot interfere in such transfer, as it would affect the welfare of the students and the school found with surplus teachers, therefore, this Court is inclined to consider the request of the petitioner. In the result both the writ petitions are dismissed. No cost. Consequently, connected Miscellaneous Petitions are closed."

7. So far as the present writ petitioners are concerned, they are junior most teachers of the school as per the existing Rules and out of 11 teachers being surplus and subsequent seniority list, the petitioners have to be deployed and hence, they were called for to attend the deployment counseling as per the existing Rules, as per Government Order and Director's proceedings to choose the school at their option. Therefore, the respondents denied the allegations of the petitioners that Union / Block wise seniority is to be followed and "Last Come First Go" principle to be followed. Further, service of the teachers is essential to needy schools and vacancy of the teachers ought to be filled for upliftment of the standard of education in all schools. The teachers in service are liable to be transferred anywhere in the State and only after obtaining undertaking to serve anywhere in the State, they were appointed.

8. In the counter affidavit further it has been clarified that as per the Government Orders and Director's proceedings the surplus teachers who are to be deployed to other Block / union, the Seniority of the teachers in the existing block will be restored in their home Union/ Block. Therefore, seniority of the petitioners will not be affected, since it has been specifically stated by the respondents that seniority of the surplus teachers will be restored where they are working at present. Even arrangements are made by the Government for the surplus teachers in order to provide alternative place. Therefore, no prejudice will be caused to the petitioners to join in the transferred place.



9. In view of the submissions made by the learned Special Government Pleader appearing for the respondents and recording the specific averment made in the counter affidavit, the seniority of the surplus teachers will be restored in their union, once they will be re-inducted in their union, where they are working at present, these Writ petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (w)

// True Copy //

Sub Assistant Registrar(CS)

trp

To

- 1.The Director of Elementary Education,
DPI Campus, College Road, Nungambakkam, Chennai - 600 006.
 - 2.The Chief Educational Officer, Trichy.
 - 3.The District Educational Officer, Lalgudi, Trichy District.
 - 4.The Block Educational Officer, Thuraiyur, Trichy District.
 - 5.The Headmaster,
Panchayat Union Elementary School,
Sengattuppatti, Thuraiyur Union, Trichy District.
 - 6.The Headmaster,
Panchayat Union Elementary School,
Naduvalur, Thuraiyur Union, Trichy District.
 - 7.The Headmaster,
Panchayat Union Elementary School,
Keerambur, Thuraiyur Union, Trichy District.
 - 8.The Headmaster,
Panchayat Union Elementary School,
Melakunnuppatti, Thuraiyur Union, Trichy District.
- +5 CC to M/s.R. SUBRAMANIAN, Advocate (SR-82952[F] dated 22/08/2019
- +1 CC to M/s.SPL GP (SR-83163[F] dated 22/08/2019)

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