



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

**W.P. (MD) Nos.16064, 15572, 15924, 15571, 15589, 15591, 15592, 15599,
15602, 15603, 15508 and 15569 of 2019
and
Connected miscellaneous petitions**

K.Tamilarasi	... Petitioner in WP(MD).16064/2019
S.Kalaivani	... Petitioner in WP(MD). 15572/ 2019
I.Geeta	... Petitioner in WP(MD). 15924/ 2019
M.Ramyadevi	... Petitioner in WP(MD). 15571/ 2019
S.Chithrakala	... Petitioner in WP(MD). 15589/ 2019
K.Anusuya	... Petitioner in WP(MD). 15591/ 2019
N.Mangai	... Petitioner in WP(MD). 15592/ 2019
C.Mathi	... Petitioner in WP(MD). 15599/ 2019
V.Sudha	... Petitioner in WP(MD). 15602/ 2019
P.Balamurugan	... Petitioner in WP(MD). 15603/ 2019
S.Rajeswari	... Petitioner in WP(MD). 15508/ 2019
C.Selvi Joy	... Petitioner in WP(MD). 15569/ 2019

-Vs-

- 1.Government of Tamil Nadu,
Represented by its Principal Secretary,
School Education Department,
Fort St. George,
Chennai-9.
- 2.Director of Elementary School Education,
DPI Campus,
Nungambakkam,
College Road,
Chennai.
- 3.The Chief Educational Officer,
Pudukottai District. ... Respondents 1 to 3 in all Wps
- 4.The Block Educational Officer,
Thiruvarankulam Block,
Pudukottai District. ... 4th Respondent in WPs 15569,
15572, 15924/2019
- 5.The Block Educational Officer,
Pudukkotai Union, Pudukkotai District.
<https://hcservices.ecourts.gov.in/hcservices/> ... 4th Respondent in WP(MD).15571/ 2019



6.The Block Educational Officer,
Aranthangi, Pudukkottai District.

... 4th Respondent in WP(MD) Nos. 15589/2019

7.The Block Educational Officer,
Viralimalai, Pudukkottai District.

...4th Respondent in WP(MD)Nos. 15592 &
15603/2019

8.The Block Educational Officer,
Avudaiyar Koil, Pudukkottai District.

... 4th Respondent in WP(MD). 15599 &
15508/19

9.The Block Educational Officer,
Kandharva Kottai, Pudukkottai District.

...4th Respondent in WP(MD). 15602 &
15569/ 2019

10.The Block Educational Officer,
Pudukkottai Block, Pudukkottai District.

... 4th Respondent in WP(MD).15591/2019

COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pursuant to the impugned G.O(1D) No.217, dated 20.06.2019 passed by the first respondent and quash the same and consequentially direct the respondents herein to include the surplus teachers deployed as LKG and UKG teachers for the counselling for transfer.

For Petitioner : Mrs.Porkodi Karnan
(in all WPs) for M/s.Polax Legal Solutions

For Respondents : Mrs.S.Srimathy,
(in all WPs) Special Government Pleader

COMMON ORDER

The petitioners are seeking to quash G.O.(1D)No.217, School Education (S.E.5(1)) Department, dated 20.06.2019 and consequently directing the respondents to include the surplus teachers deployed as LKG and UKG teachers for the counselling for transfer.

2.Since the issues involved in these Writ Petitions are one and the same, these Writ Petitions are heard together and disposed of by way of this common order.

3. According to the petitioners, they are working as

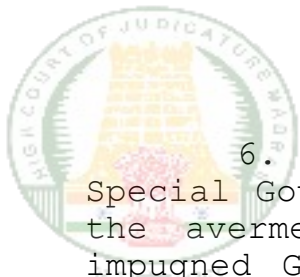
<https://hcservices.ecourts.gov.in/hcservices/>



Secondary Grade Teachers under the respondents. The first respondent passed G.O.Ms.No.89, Social Welfare Department, dated 11.12.2018 with regard to appointment of existing Secondary Grade Teachers to take classes for LKG and UKG. After passing of said Government Order, the respondents decided to deploy the surplus teachers found in a particular union to take classes for LKG and UKG. The petitioners were found to be surplus in the year 2018-2019 and have been directed to be deployed as Teachers for LKG and UKG. According to the petitioners, various Teachers Union challenging G.O.Ms.No.89, Social Welfare Department, dated 11.12.2018, filed writ petitions in W.P.(MD)No.1091 of 2019 etc., batch, on various grounds including their apprehension that such appointment would lead to reduction in rank, reduction in status, transfer from one department to another department, absence of norms including seniority. In that writ petitions, the Government filed counter affidavit stating that the Secondary Grade Teachers would be governed by Elementary Education Department and there is no merger and the service conditions including the seniority will not be disturbed for any reason. The deployment is made only as per the policy decision of the Government and there is no loss of pay to the petitioners and therefore, the promotion of the petitioners will not be affected, since the original seniority of the petitioners will be maintained in the same Panchayat Union. This Court, by judgment dated 22.05.2019, dismissed the writ petitions by observing the assurance given by the Government in the counter affidavit. By order, dated 03.06.2019 the Teachers, who were found surplus were directed to join as Teachers to take Classes for LKG and UKG and the petitioners joined as per the deployment order.

4.The first respondent now, has issued G.O.(1D)No.217, School Education (S.E.5(1)) Department, dated 20.06.2019, by which, they have called for counselling for transfer of surplus teachers. The petitioners were not included for deployment, who were deployed, in the proposal for transfer by counselling and on enquiry, the third respondent informed the petitioners that the deployed Secondary Grade Teachers are not eligible for deployment again. Therefore, the petitioners have come out with the present writ petitions challenging the Government Order and for a direction to include the surplus teachers deployed as LKG and UKG teachers in the counselling for transfer.

5. According to the learned counsel for the petitioners, by the impugned Government Order, the respondents are taking away the right to equality of the petitioners, which is guaranteed by Constitution. The impugned Government Order has been passed without considering the undertaking given by the Government before this Court and the impugned Government Order is illegal. The first respondent failed to see that the petitioners are all Secondary Grade Teachers and they were deployed as surplus teachers initially and therefore, they are entitled to get transfer and prayed for writ petitions.



6. The respondents filed counter affidavit. The learned Special Government Pleader appearing for the respondents reiterated the averments in the counter affidavit and submitted that the impugned Government Order contains instructions for deployment of surplus teachers including LKG and UKG teachers and it is not the Government Order with regard to counselling for general transfer. The present writ petitions are pre-mature. The petitioners were found surplus in the year 2018-2019 and were deployed to other schools and their seniority will be retained in the parent school and they will be entitled to participate in the general counselling, if they have completed three years in the parent school and prayed for dismissal of the writ petitions.

7. Heard the learned counsel appearing for the petitioners and the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

8. From the materials on record, it is seen that the petitioners are working as Secondary Grade Teachers and they were found to be surplus teachers taking into consideration the students- teachers ratio. As per G.O.Ms.No.89, Social Welfare Department, dated 11.12.2018, they were deployed as LKG and UKG teachers. After dismissal of the batch of writ petitions on 22.05.2019 in W.P.(MD) No.1091 of 2019 etc., batch, challenging G.O.Ms.No.89, Social Welfare Department, dated 11.12.2018, filed by the Teachers Association as well as the individual, by observing the assurance given by the Government in the counter affidavit, the petitioners were deployed by order dated 03.06.2019. The first respondent issued G.O.(1D)No.217, School Education (S.E.5(1)) Department, dated 20.06.2019, which deals with deployment of surplus teachers. As per the said Government Order, surplus teachers are identified in a particular school. After preparing the list of such surplus teachers, they were deployed to the needy schools either within the union or in the other union as per the circumstances. The petitioners on misconception with the said Government Order, which relates to general transfer counselling have come out with the present writ petitions. It is not the case of the writ petitioners that they are surplus teachers and they are entitled to be deployed. The learned Special Government Pleader appearing for the respondents submitted that the petitioners are seeking for a direction to the respondents to include the surplus teachers deployed as LKG and UKG teachers in the general counselling for transfer. The impugned Government Order does not relates to transfer and it relates to only deployment of surplus teachers. The petitioners are not surplus teachers. The learned Special Government Pleader appearing for the respondents submitted that the petitioners seniority will be retained in the parent union and if they have completed three years of service in the parent school, they will be considered for participating in the general counselling for transfer.



9. The petitioner are seeking for a direction to the respondents to include the surplus Teachers deployed as LKG and UKG teachers in the counseling for transfer after quashing G.O.(1D) No.217, School Education (S.E.5(1)) Department, dated 20.06.2019. As already pointed out above, the impugned G.O.(1D)No.217, School Education (S.E.5(1)) Department, dated 20.06.2019 does not relate to transfer. It relates to only deployment of surplus teachers. In view of the same, the petitioners are directed to make representations to the respondents expressing their grievances.

10. With the above observations and directions, all the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

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To

- 1.The Principal Secretary,
School Education Department,
Fort St. George, Chennai-9.
- 2.Director of Elementary School Education,
DPI Campus, Nungambakkam,
College Road, Chennai.
- 3.The Chief Educational Officer,
Pudukottai District.
- 4.The Block Educational Officer,
Thiruvarankulam Block,
Pudukottai District.
- 5.The Block Development Officer, Aranthangi,
Pudukkottai District.
- 6.The Block Educational Officer,
Viralimalai, Pudukkottai District.
- 7.The Block Educational Officer,
Avudaiyar Koil, Pudukkottai District.



8.The Block Educational Officer,
Kandharva Kottai, Pudukkottai District.

9.The Block Educational Officer,
Pudukkottai Block, Pudukkottai District.

+1 CC to M/s.POLAX LEGAL SOLUTIONS, Advocate (SR-99395[F] dated
19/11/2019)

+1 CC to M/s.GP (SR-99572[F] dated 19/11/2019)

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