



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD)No.14168 of 2014

and

W.M.P.(MD)No.7670 of 2018

WEB COPY

A.Sahaya Mary

... Petitioner

-Vs-

- 1.The Principal Secretary to Government,
Department of School Education,
Fort St. George, Chennai-09.
- 2.The Director of Elementary Education,
O/o. Director of Elementary Education,
DPI Campus, Chennai.
- 3.The Director of School Education,
O/o. The Director of School Education,
DPI Campus, Chennai.
- 4.The Joint Director of School Education,
O/o. The Joint Director of School Education,
DPI Campus, Chennai.
- 5.The Joint Director of Elementary Education,
O/o. Joint Director of Elementary Education,
DPI Campus, Chennai.
- 6.The District Educational Officer,
O/o. The District Educational Officer,
Pudhukkottai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in Na.Ka.No.12605/D1/2014 dated 13.05.2014 on the file of the respondent No.5 and quash the same as illegal and consequently, direct the respondent No.2 to transfer to any other Government Middle School at Trichy District within the time stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy



For Respondents : Mrs.S.Srimathy,
Special Government Pleader.

ORDER

The order dated 13.05.2014, rejecting the claim of the writ petitioner to transfer her to any other Government Middle School at Trichy, is under challenge in the present Writ Petition.

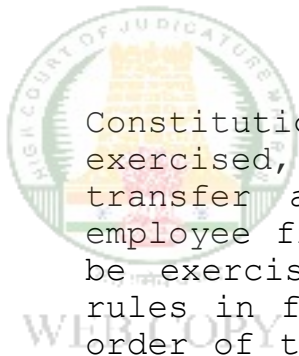
2.The writ petitioner was appointed as Graduate Teacher in Pudukkottai District. She was posted at Panchayat Union Middle School at Gandarvakottai Union, at Pudukkottai District.

3.The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner is having certain personal disabilities and she is a widow and therefore, she must be transferred to Trichy District.

4.In this regard, the learned Special Government Pleader appearing on behalf of the respondents states that the writ petitioner had not even submitted any application, setting out the facts to the authorities competent. Contrarily, the writ petitioner earlier filed W.P.(MD)No.2055 of 2014 and this Court passed an order on 07.02.2014 to consider the representation dated 02.01.2014. Considering the said representation dated 02.01.2014, the impugned order dated 13.05.2014 was issued by the Joint Director of Elementary Education (Administration) / 5th respondent herein.

5.Post or place can never be claimed as a matter of choice by the public servants. Transfer is an incidental to service, more so, a condition of service. Once an offer of appointment is made to a person and such an offer of appointment is accepted undoubtedly, service conditions are binding on the employees concerned. Public servant is liable to work, wherever he/she is posted in the interest of public administration. On accepting the offer of appointment, a person is agreeing for the conditions of service and transfer being incidental, he/she must be in a position to work, wherever he/she is posted. The competent authorities are empowered to exercise the powers offered, which are all agreed upon by the employees also.

6.Transfer is effected for the efficient public administration. Undoubtedly, some personal grievances may arise for certain employees. However, the High Court cannot consider those personal grievances. The High Court cannot act as a transferring authority. The High Court cannot interfere with the routine administration of the State Government Departments, its organizations or corporations. It is beyond the jurisdiction of the power of judicial review offered under Article 226 of the



Constitution of India. The power of judicial review cannot be exercised, so as to issue direction to the competent authorities to transfer an employee to a particular district or withdraw the employee from any district. All such administrative affairs are to be exercised by the competent authorities with reference to the rules in force. Thus, the High Court would not interfere with the order of transfer or non-consideration of the application submitted for requesting transfer. All such exercises are to be done by the competent authorities in the manner known to law and in the interest of public administration and to maintain the efficiency level in the public administrations, which is also a constitutional mandate.

7. Running administration is the prerogative of the competent authorities. The High Court cannot direct the authorities to transfer an employee in a particular place or post. This being the legal principle settled and to be followed, this Court is of an opinion that in the event of any transfer grievances, the writ petitioner has to approach the authorities and in the event of non-consideration of such transfer grievances, the writ petitioner has to continue in the services and if she is not willing to continue, she is at liberty to take a decision.

8. Many options are available to the Government servant. If a public servant is unable to perform duties and responsibilities with full devotion only to the interest of public at large, then they can opt for voluntary retirement or submit resignation and quit the job, enabling the Government to provide opportunity to the unemployed youths, who are all aspiring to secure public employment through open competitive process. Contrarily, these employees are not supposed to create unnecessary issues. The employees are supposed to work, wherever they are posted. Every family is having a problem one or another. As Puddha said, "Show me a family, where there is no death, then, I will give life to your child. Thus, every family is having a problem. Those problems cannot stand in the way of performance of duties and responsibilities attached to the public posts. A Lawyer, who is appearing in this case may also have some problems. In spite of that he is appearing and arguing the case nor protect his client, namely, the writ petitioner.

9. This being the spirit and the principles, this Court has no hesitation in holding that the very claim of the writ petitioner deserves no merit consideration in the hands of this Court and it is left open to her to approach the authorities. However, the writ petitioner cannot file another Writ Petition, if any other order of rejection is passed for the purpose of continuing litigation. In such matters, the High Court cannot show any misplaced sympathy, so as to dislocate or interfere with the public administration. Such misplaced sympathy would cause prejudice in the interest of running public administration smoothly by the competent authorities.

10. With these observations, this Writ Petition stands



dismissed. No costs. consequently, connected miscellaneous
petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar (CS)

To

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- 6.The District Educational Officer,
O/o. The District Educational Officer,
Pudhukkottai District.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-80557[F] dated
08/08/2019)

+1 CC to M/s.SPL GP (SR-80592[F] dated 08/08/2019)

W.P. (MD)No.14168 of 2014

07.08.2019

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