



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 30.10.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.22862 of 2019

and

W.M.P (MD) Nos.19608 & 19610 of 2019

WEB COPY

Chinnasamy

... Petitioner

-Vs-

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Secretariat, Chennai.

2.The Director of School Education,
Chennai-6.

3.The Joint Director (Higher Secondary),
Chennai-6.

4.The Chief Educational Officer,
Thanjavur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the first respondent in his proceedings in G.O.(1D) No.218, School Education (Pa.Ka.5(1) Department dated 20.06.2019 in so far as the condition 9(i) is concerned and quash the same and direct the respondent to permit the petitioner to participate in the counseling which is going to be conducted for the academic year 2019-2020 for P.G.Assistant (English) by accepting the petitioner's application dated 25.06.2019, so as to enable her to get transfer.

For Petitioner : Mr.S.Prabhu
For Respondents : Mr.M.Karuppasamy,
: Government Advocate

ORDER

The Writ Petition is filed challenging the Government Order in G.O(1D) No.218, School Education (Pa.Ka.5(1)) Department, dated 20.06.2019, passed by the first respondent and quash the same as illegal insofar as Condition No.9(i) and consequently, directing the respondents to permit the petitioner to participate in the General Transfer Counselling for the year 2019-2020.



2. Mr.M.Karuppasamy, learned Government Advocate, takes notice on behalf of the respondents. By consent of both parties, the Writ Petition is taken up for final disposal at the stage of admission itself.

3. According to the petitioner, he participated in the selection process conducted by the Teachers Recruitment Board in the year 2013-2014 and 2014-2015. The petitioner was successful in the written examination. He was appointed as P.G.Assistant in S.B.Aditanar Government Higher Secondary School, Kaymozhi, Thoothukudi District on 30.03.2015. While so, in the general counseling on 06.07.2016, the petitioner got transferred to Government Higher Secondary School, Ananthagopalapuram, Thanjavur District and joined on 23.08.2016. The said school is far away from his residence. The petitioner applied for transfer through Headmaster of Government Higher Secondary School, Ananthagopalapuram, Thanjavur District, on 27.06.2019, but they refused to accept the application on the ground that as on 01.06.2019, he has not completed three years in the working place. While so, the Government issued G.O.(1D) No.218, School Education (Pa.Ka.5(1)) Department, dated 20.06.2019 and a condition is imposed in Clause 9(i) that only persons, who have worked for three years as on 01.06.2019 on the same School, alone are entitled to participate in the general counselling for the year 2019-2020.

4. The learned counsel appearing for the petitioner contended that the condition imposed in the said Government Order that the Teachers must work in a same school for three years instead of one year as per the earlier Government Order, is arbitrary. This Court, by order dated 13.03.2019 in W.P(MD)No.23772 of 2018, issued guidelines to the respondents to conduct the general counselling atleast thrice in a year so that, persons like petitioner, can opt for better work place. Instead of following the said guidelines, the respondents have modified the period of one year and increased the same into three years. Clause 9(i) of the said G.O.(1D) No.218, dated 20.06.2019, was challenged by number of teachers and this Court by order dated 27.08.2019, made in W.P(MD)No.14188 of 2019 etc. batch, modified the said clause and held that the said order is applicable to the persons, who have filed the writ petitions. The respondents have stated that the persons, who filed the writ petitions, will be alone participated in the general counselling. The said act of the respondents is arbitrary and illegal and prayed for allowing the writ petition.

5. Heard the learned counsel appearing for the petitioners and the learned Government Advocate appearing for the respondents and perused the materials available on record.

6. The petitioner is challenging Clause 9(i) of G.O.(1D) No.218, School Education (Pa.Ka.5(1)) Department, dated 20.06.2019 and condition is imposed that only a person, who has worked



for three years as on 1.6.2019 in the same school alone is eligible to participate in the general counselling to be held for the year 2019-2020. This Clause was challenged by number of Teachers by filing writ petitions. This Court, after considering the submissions made by the learned counsel for the petitioner and the learned Additional Advocate General, by order dated 27.08.2019, modified the said Clause and Clause 10 of the said G.O.(1D) No.218, dated 20.06.2019, and passed the following order:-

"17. Therefore, in the interest of justice, this Court is inclined to modify the condition 9(i) of the G.O(iD) No.218, School Education (Pa.Ka.5(1)) Department dated 20.06.2019 and Clause (1), 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 academiid year 2018-2019, not completing one year of service in the present working place, and 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, date 26.08.2019, School Education Department, Secretariat, Chennai-9, within a period of two weeks from the date of receipt 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."

7. In the said order, this Court modified the condition of three years and permitted the petitioners therein to participate in the general counselling for transfer, who have not worked for three years in the same school. The cut-off date in Clause 9(i) is 1.6.2019. In the present case, the petitioner was appointed and posted to the present school and he is working from 23.08.2016 and he completed three years of service in that School on 23.08.2019. The petitioner is short only 2 months 22 days as on 1.6.2019. For such shortage, the petitioner cannot be made to work for one more year to participate in the general counselling. Further, general counselling is yet to be conducted.

8. Considering the above facts and the petitioner is completed three years of service on 23.08.2019, the respondents are directed to permit the petitioner to participate in the general counselling as and when the same is conducted.

9. With the above observations and directions, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Principal Secretary,
Department of School Education,
Fort St. George,
Chennai-9.

2.The Director of School Education,
DPI Campus,
Chennai-6.

3.The Joint Director of School Education (Higher Secondary),
DPI Campus,
Chennai-6.



4.The Chief Educational Officer,
Thanjavur,
Thanjavur District.

+1 CC to Mr.S.PRABHU, Advocate (SR-94943[F] dated 30/10/2019)
+1 CC to SPL GP (SR-95109[F] dated 31/10/2019)

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