



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2019

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CORAM:

THE HONOURABLE **MR. JUSTICE M.S.RAMESH**

W.P. (MD) No. 25303 of 2019
and
W.M.P (MD) .No. 21886 of 2019

C.Jaya

... Petitioner

/vs./

1.The Chief Educational Officer,
Virudhunagar District,
Virudhunagar.

2.The District Educational Officer,
Srivilliputur,
Virudhunagar District.

3.The Block Educational Officer,
Rajapalayam,
Virudhunagar 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 relating to the impugned transfer of the first respondent in Na.Ka.No.6526/A5/2019, dated 20.11.2019 and consequently, forbear the first respondent herein and his subordinate authorities from interfering with the petitioner's employment in the present station at 10th Ward Municipal Elementary School, Rajapalayam, Rajapalayam Union, Virudhunagar District, as per Clause 4(III) (iv) of guidelines for transfer of surplus teacher for 2019-20 issued by the Government in G.O(1D) No.217 School Education (S.E 5(1) Department) dated 20.06.2019.

For Petitioner : Mr.K.Appadurai

For Respondents : Mr.A.Thiyagarajan
Government Advocate



ORDER

The petitioner has been transferred through the impugned order in Na.Ka.No.6526/A5/2019, dated 20.11.2019 passed by the first respondent from 10th ward Municipal Elementary School, Rajapalayam to Panchayat Union Middle School, Melakkallangulam, Kariyapatti Union on the ground that the post has been declared as surplus in the petitioner's School for the lack of students. Against which, the present writ petition has been filed.

2. Heard the learned counsel appearing for the petitioner and learned Government Advocate appearing for the respondents.

3. The learned counsel for the petitioner raised his objection in two fold. Firstly, he submitted that the petitioner is a cancer patient and therefore, it is not in accordance with the guidelines issued by the Government in G.O.(1D).No.217, School Education (S.E 5 (1) Department), dated 20.06.2019. Secondly, he would also submit that if at all the petitioner is required to be transferred, he could be transferred to a place close to his residence, which would enable him for the treatment.

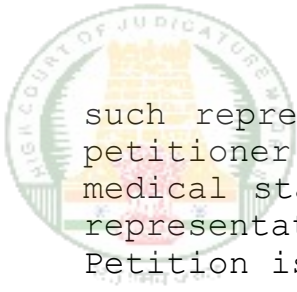
4. The guidelines relied upon by the petitioner are only directory in nature and cannot be deemed mandatory and therefore, mere deviation from the guidelines cannot render the impugned order illegal.

5. It is also submitted by the learned Government Advocate appearing for the respondents that though the petitioner has been declared as surplus teacher, he has been continuing in the same post for the past six years without any sufficient students.

6. In view of these aspects, I do not intend to interfere with the impugned order of transfer.

7. Nevertheless if the petitioner is of the view i.e., medical ailment will not permit him to travel to a long place, it is always open to him to make an appropriate representation to the concerned respondent seeking placement in School, which is close to his residence.

8. In the light of the above observations, the Writ Petition stands closed with liberty to the petitioner to make a fresh representation before the concerned respondent seeking for transfer to any other place of choice. In case, the petitioner is of the view that some of his juniors have not been transferred, as opposed to the guidelines issued by the Government, it is always open to him to raise such a ground before the respondent in his representation. On receipt of such representation, the concerned respondent shall endeavour to act on the same as expeditiously as possible, in any event, within a period of two months from the date of receipt of



such representation. The respondents are at liberty to refer the petitioner to a Medical Board for the purpose of ascertaining his medical status before taking any further action on the petitioner's representation. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar (CS)

rmk

To

1. The Chief Educational Officer,
Virudhunagar District,
Virudhunagar.
2. The District Educational Officer,
Srivilliputur,
Virudhunagar District.
3. The Block Educational Officer,
Rajapalayam,
Virudhunagar District.

+1 CC to M/s.K.APPADURAI, Advocate (SR-104327[F] dated 11/12/2019)

+1 CC to M/s.SPL.GP (SR-104503[F] dated 11/12/2019)

W.P. (MD) No. 25303 of 2019
10.12.2019

JMN(18.12.2019) 3P : 6C