

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 04.01.2021
CORAM

THE HONOURABLE **MR. JUSTICE R. MAHADEVAN**

W.P.No.17846 of 2013

K.Arivazhagan

... Petitioner

Vs

1. The Commissioner of Backward Classes
and Minorities Welfare Office
Chepauk, Chennai - 600 005.

2. The Director
Adi Dravidar Welfare Department,
Chepauk, Chennai - 600 005.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records in connection with the proceedings in Letter No.C1/3822/2012 dated 19.11.2012 on the file of the first respondent, quash the same in so far as the petitioner is concerned and consequently direct the respondents to issue orders transferring the petitioner from Adi Dravidar and Tribal Welfare Department and to post him as B.T.Assistant in the Backward Classes and Minority Welfare Department by transfer of service as per Rule 2 and 4 of Tamil Nadu Backward Classes and Minorities Welfare Department within a time to be stipulated by this Court.

For Petitioner : Mr.S.Mani

For Respondents : Mr.J.Ramesh,

Addl.Govt.Pleader

ORDER

The Petitioner has come up with this Writ Petition seeking to quash the order dated 19.11.2012 passed by the first Respondent vide Lr.No.C1/3822/2012 addressed to the second respondent and consequently direct the respondents to issue orders transferring the petitioner from Adi Dravidar and Tribal Welfare Department and posting him as B.T.Assistant in the Backward Classes and Minority Welfare Department as per Rules 2 and 4 of the Tamil Nadu Backward Classes and Minorities Welfare Department, within a time to be stipulated by this Court.

2.According to the Petitioner, he entered into Adi Dravidar and Tribal Welfare Department as a Secondary Grade Assistant on

14.03.1991. Thereafter, he was promoted as B.T. Assistant on 22.03.2010. While working as such, he submitted an application to the District Adi Dravidar Welfare Officer, Cuddalore District requesting to transfer him from Adi Dravidar Welfare Department to the Backward Classes and Minorities Welfare Department, as per Rules 2 and 3 of Tamil Nadu Backward Classes and Minorities Welfare Department. The said application was recommended and forwarded by the second respondent to the first respondent. However, the first respondent rejected the said application, vide communication dated 19.11.2012, which is impugned herein.

3.The learned counsel for the petitioner assailed the order impugned herein on the following grounds:

(i)The impugned order is contrary to G.O.Ms.No.2671 Social Welfare Department dated 30.12.1987 and G.O.Ms.No.114 Backward Classes and Most Backward Classes and Denotified Community Department dated 12.12.2000, wherein, it was stated that when there are three vacancies for being filled up, one post can be filled by resorting to employment exchange seniority or by direct recruitment and the other two posts can be filled either by giving promotion or by transfer of service.

(ii)One J.Anbarasi, Tutor cum Matron, Government Girls Hostel (ADW) Melarani, Polur Taluk, Tiruvannamalai District was transferred from ADW Department to the Backward Classes and Minorities Welfare Department by order dated 14.05.2012 and hence, the order impugned in this writ petition is discriminatory in nature.

(iii)As per G.O.Ms.No.250, P&AR Department, dated 15.09.2003, in the public interest, transfer of a Government servant from one category or class of one service to another category or class of another service on administrative grounds can be made and therefore, the request of transfer made by the petitioner ought to have been favourably considered by the first respondent.

Thus, the learned counsel sought to allow the writ petition by quashing the order impugned herein.

4.Reiterating the averments made in the counter affidavit filed by the first respondent, the learned Additional Government Pleader appearing for the respondents vehemently opposed the relief made in this writ petition. According to him, the petitioner sought, not only departmental transfer i.e., from Adi Dravidar Welfare Department to the Backward Classes and Minority Welfare Department, but also transfer from service to service i.e from Adi Dravidar Welfare Subordinate services to the Tamil Nadu Backward Classes Welfare Subordinate Services. He further submitted that as per the rules governing the post of Tutor-cum-warden or Tutor-cum-Matron of the Most Backward Classes and Denotified Communities Welfare Department, the appointing

authority is District Backward Classes Welfare Officer of the District concerned; though there is a provision for recruitment by transfer, it was not specified in the said rule, from which service the recruitment by transfer should be made and hence, the petitioner working in the post governed by the Adi Dravidar Welfare Subordinate services cannot be transferred to the Tamil Nadu Backward Classes Welfare Subordinate Services. It is also submitted that though the Director of Backward Classes Welfare, Chepauk, Chennai, vide his proceedings dated 14.05.2012, granted transfer to J.Anbarasi, as per G.O. (2D) No.8, Backward Classes, Most Backward Classes and Minorities Welfare Department Dated 20.04.2012, the said transfer was subsequently, cancelled and the said Anbarasi was reverted back to the parent department, vide G.O.(2D) No.45, BC, MBC, MW (MWRU) Department, dated 07.09.2015 and therefore, there is no discrimination in the action of the first respondent, as alleged by the petitioner. Thus, according to the learned Additional Government Pleader, the order impugned herein is perfectly valid and the same does not warrant any interference at the hands of this Court.

5. Heard both sides and perused the documents filed in the form of typed set of papers.

6. The petitioner sought transfer from the Adi Dravidar and Tribal Welfare Department to Backward Classes and Minority Welfare Department by transfer of service, which is not only a departmental service, but also service transfer. The counter affidavit proceeds to state that the ratio for appointment to the post of Tutor-cum-Warden or Tutor-cum-Matron, by direct recruitment and by recruitment on transfer or promotion, shall be adopted for each year and the same shall not be carried over to the succeeding year; and there is no specific rules from which service, the recruitment by transfer should be made and hence, the claim of the petitioner was not considered by the first respondent. Further, the transfer granted to similarly situated person, viz., J.Anbarasi, was subsequently, cancelled and she was reverted back to the parent department, vide G.O. (2D) No.45, BC, MBC and MW (MWRU) Department, dated 07.09.2015. That apart, the petitioner has not stated any substantive reason for such transfer. Therefore, in the light of the specific averments made in the counter affidavit, this Court is not inclined to interfere with the impugned order dated 19.11.2012 passed by the first respondent.

7. Moreover, it is well settled that Courts must not ordinarily interfere in administrative matters and should maintain judicial restraint vide **Tata Cellular v. Union of India, AIR 1996 SC 11.**

8.In such view of the matter, the writ petition sans merits and is accordingly, dismissed. No costs.

Sd/-

Assistant Registrar (CS.VI)

/True Copy/

Sub Assistant Registrar

To

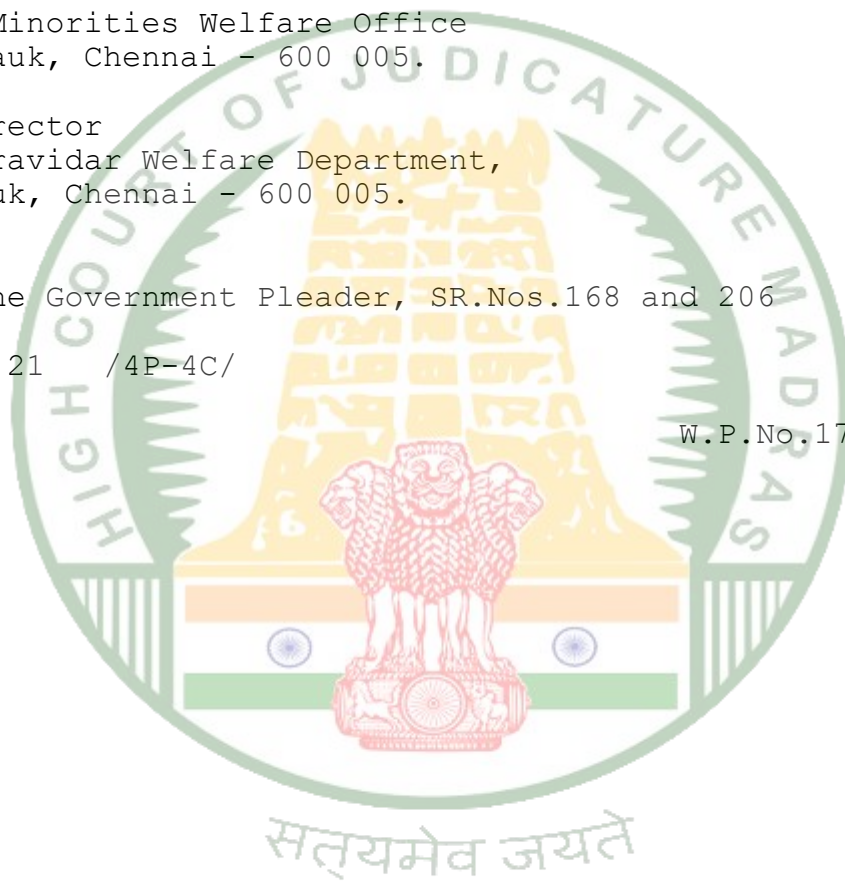
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+1cc to The Government Pleader, SR.Nos.168 and 206

AKM/17.02.21 /4P-4C/

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