

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2021

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

W.P.No.6833 of 2021
and WMP.Nos.7384 & 7387 of 2021

T. Suresh Kumar

...Petitioner

..Vs..

1. The Joint Director of School Education,
(Personnel Department)
DPI Campus, College Road,
Chennai 600 006.
 2. The Chief Educational Officer,
Cuddalore District,
Cuddalore 607 001.
 3. The District Educational Officer,
Chidambaram,
Cuddalore District 608 001.
- ...Respondents

Prayer:- This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent having Ref.Na.Ka.No.37805/C1/E3/2020 dated 25.02.2021 and quash the same and consequently direct the respondents to permit the petitioner to continue to work as Headmaster Government High School, Ayeepuram, Cuddalore District.

For Petitioners : Ms.C.Uma
For Respondents : Mr.P.Raja
Government Advocate

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ORDER

This writ petition has been filed to call for the records of the first respondent made in Ref.Na.Ka.No.37805/C1/E3/2020 dated 25.02.2021 and quash the same and consequently direct the respondents to permit the petitioner to continue to work as Headmaster, Government High School, Ayeepuram, Cuddalore District.

2. Mr.P.Raja, learned Government Advocate takes notice for Respondents. By consent of both the parties, this writ petition is taken up for final disposal at the admission stage itself.

3. The petitioner has come forward challenging the proceedings dated 25.02.2021 transferring the petitioner from Government High School, Ayeepuram, Cuddalore District to Government High School, Edaiyar, Cuddalore. According to the petitioner, the transfer is on account of charges, which have been referred to in the transfer order and it causes a stigma, as the transfer pursuant to charges would amount to punishment.

4. The proceedings dated 17.03.2020 is a suspension order issued to the petitioner which was revoked on 24.03.2020 on receipt of the explanation from the petitioner. A charge memo dated 04.06.2020 was issued to the petitioner and thereafter a transfer order has been issued on 25.02.2021 after a period of six months. The theory of transferring a person on the ground of charges amounts to stigma is an ancient theory. More so, after the judgment of the Apex Court in State of TN vs. Promod Kumar IPS and another, reported in AIR 2018 SC 4060 and Ajay Kumar Choudhary vs. Union of India through its Secretary and another, reported in 2015 (3) CTC 119, when a person is placed under suspension, the Apex Court has held that the suspension cannot be prolonged and it has to be reviewed atleast once in six months and the department will have to decide whether revocation of suspension will cause any hurdle and will make any impact on the departmental enquiry and criminal proceedings. In that case, the Apex Court held that in case the suspension is revoked, the person, who was placed under suspension, can be posted in a non sensitive post, so that there is no tampering of any records. The Supreme Court has categorically held that after six months the suspension will have to be reviewed periodically. The crux of the decision is that when an order of suspension is revoked, it is open to the employer to post the employee, who was placed under suspension to some other far off place. In view of the observation of the Apex Court, the question of causing stigma does not arise.

5. In the present case on hand, the respondent relied upon the proceedings dated 22.12.2020 by which the second respondent recommended to the Director, Chennai for transfer of the petitioner. However, petitioner submitted that said proceedings have not been communicated to him.

6. This Court is not inclined to refer to the said proceedings dated 22.12.2020, as the same is disputed by the petitioner. Admittedly, a charge memo has been issued to the petitioner, after revocation of suspension and therefore there is no impediment for the employer in transferring the petitioner

from one place to another place. In my considered opinion, withdrawal of suspension and the order of transfer, which is the subject matter of the present writ petition fall under different proceedings which cannot be mingled together.

7. In the result I find no error in the impugned order of transfer and this Court is not inclined to grant relief sought for.

8. With the above observation the writ petition is dismissed. No costs. Consequently connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

dpq

To

1. The Joint Director of School Education,
(Personnel Department)
DPI Campus, College Road,
Chennai 600 006.
2. The Chief Educational Officer,
Cuddalore District,
Cuddalore 607 001.
3. The District Educational Officer,
Chidambaram,
Cuddalore District 608 001.

+1cc to Mr.C.Uma, Advocate, SR.No.17198

+1cc to Government Pleader, SR.No.17333

W.P.No.6833 of 2021

and WMP.Nos.7384 & 7387 of 2021

RSV(CO)
KKV/18/06/2021

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