

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Review Application No.99 of 2021

in

W.P.No.27917 of 2019

M.Ramya

.. Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. By its Secretary to Government,
School Education Department,Secretariat, Chennai – 9.
- 2.The Director of Elementary Education,
O/o. The Director of Elementary Education,
DPI Campus, College Road, Chennai – 6.
- 3.The Chief Educational Officer,
O/o. The Chief Educational Office,
Nagapattinam, Nagapattinam District.
- 4.The District Educational Officer,
O/o. The District Educational Office,
Nagapattinam, Nagapattinam District.
- 5.The Block Educational Officer,
O/O.The Block Educational Office,
Keezhaiyur, Nagapattinam District.
- 6.The Head Master,
Panchayat Union Primary School,
Ettukudi, Keezhaiyur Block,
Nagapattinam District.

.. Respondents

Prayer: Review application filed under Order 47 Rule 1 & 2 of C.P.C., r/w. Under Section 114 of C.P.C., and Article 226 of the Constitution of India, seeking to review the order dated 28.11.2019 in W.P.No.27917 of 2019.

For Petitioner : Mr.K.Elangoo

For Respondents : Mr.J.Ravindran,
Additional Advocate General

ORDER

This Review Petition has been filed to review the order dated 28.11.2019, made in W.P.No.27917 of 2019.

2. The petitioner, on an earlier occasion had filed W.P.No.27917 of 2019, before this Court, challenging the deployment order issued by the 3rd respondent vide his proceedings dated 30.08.2019. This Court, vide order dated 28.11.2019, disposed of this Writ Petition along with the batch of writ petitions and issued a direction to the respective educational authorities i.e., the Directorate of Elementary and School Education to implement G.O.(1D) No.217 and the said officials were further directed to identify the posts sanctioned by the Government in the respective unions and, thereafter, the said vacant posts to be filled up with teachers, who were transferred

from parent union to another union by giving priority based on their original seniority.

3. Being not satisfied with the order of this Court, the petitioner has filed the present Review Petition before this Court, on the ground that the impugned deployment order is non est in the law, as there is no such necessity to transfer her, since the ratio of pupil-teacher is in accordance with the provisions of G.O.(1D) No.217 of 2019. It is the case of the petitioner that the student strength in the Keezhaiyur Educational Block as on 01.08.2018 was 135 and as per the said Government Order, there must be five teachers. Though the student strength was only subsequently reduced to 112, however, as on 1.8.18, the student strength was well within the ratio as provided in G.O.(1D) No.217. However, without proper appreciation of the ratio as on the relevant date, the petitioner was transferred from Keezhaiyur Educational Block to Kuthalam Educational Block and aggrieved by the same, the writ petition is filed.

4. When the Writ Petition was taken up for hearing, an interim direction was given to consider the representation of the petitioner. In compliance of the said order, the Chief Educational Officer, Nagapattinam, has considered the representation of the petitioner and rejected the relief sought for by her vide proceedings dated 19.11.2019. Thereafter, the Writ Petition was heard and disposed of on 28.11.2019, with the above said directions. Aggrieved by the same, the petitioner has filed this Review Petition.

5. Mr.K.Elango, learned counsel appearing for the petitioner submitted that vide G.O.(ID) No.217 of 2019 dated 20.06.2019, a mechanism has been created for transferring surplus teacher from one unit to another unit and by fixing a cut-off date of 1.8.18 for the purpose of identifying the student-teacher ratio. It is the submission of the learned counsel that the student-teacher ratio as on 1.8.18 should form the basis for deployment of teacher from one union to another union. However, in the case of the petitioner, on 1.8.18, the strength of the student was 135 for

which the number of teachers to be fixed is 5. Though the strength of students fell down to 112 after 1.8.18, the transfer of the petitioner in the year 2019 by considering the strength of the student after 1.8.18 is not in consonance with the directions issued in G.O.(1D) No.217. Therefore, learned counsel for the petitioner prays that since his case falls on a different footing, this Court may permit the petitioner to make representation highlighting the above aspect and seek re-transfer from Kuthalam Educational Block to Keezhaiyur Education Block as and when the student strength crosses 120.

6. Mr.J.Ravindran, learned Additional Advocate General appearing for the respondent submitted that the deployment order was issued based on the said Government Order, dated 20.06.2019. As per the said order, the student-teacher ratio for standard 1 to 5, upto 60 students is two teachers, 61-90 is three teachers, 91-120 is four teachers, 121-200 is five teachers. On an earlier occasion, the teacher strength was fixed as five when the student strength was 135 and subsequently the student strength reduced to 112. Due to the decrease in strength the petitioner was transferred. However, he

fairly conceded that in the event of increase in the strength of students, the petitioner's request will be considered as per G.O.(1D) No.217, dated 20.06.2019.

7. It is not in dispute that the as n 1.8.18, the student strength of the school in which the petitioner was working was 135, which had, thereafter, come down to 112. Based on the said student strength the petitioner was transferred on the basis of G.O.(1D) No.217. However, as pointed out by the learned counsel for the petitioner, as on 1.8.18, the cut-off date fixed in G.O.(1D) No.217, the student strength of the school was 135 and, therefore, applying the said Government Order, the petitioner ought not have been transferred. But it is also to be noted here that proceedings of transfer of the petitioner had been issued on 30.8.19. It is to be noted that every year, the Government has to relook the student strength and issue necessary Government Orders for fixing the ratio of student-teacher and fixing a cut-off date for the purpose of transfer would work hardship not only to the teacher, but also to the student and also the transfer policy of the Government. However, this Court is not venturing too much into the same and leaves it open for the Government to take a policy decision so that in

future such ambiguities does not recur in the transfer of teacher.

8. In the case on hand, since a fair submission has been made by the learned counsel on either side that as and when the student strength increases in the particular block, the petitioner's case would be considered for transfer, this Court permits the petitioner to make a representation, as and when the student strength crosses 120 and as undertaken by the learned Addl. Advocate General, the 3rd respondent authority shall consider the said representation of the petitioner in accordance with the said Government Order and pass appropriate orders in accordance with law.

9. This Review Petition is disposed of in the above terms. No costs. However, this order shall not be taken as a precedent by any of the other petitioners in the batch for having their grievance ventilated. The Government may also rethink of reissuing the Government Order by weeding out the ambiguities in G.O.(1D) No.217, dated 20.06.2019.

15.09.2021

sk/GLN

Index: Yes/ No
Internet: Yes/ No

M.DHANDAPANI,J.
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To

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