



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2021

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THE HON'BLE MR. JUSTICE C.SARAVANAN

W.P. NO.23157 OF 2021 AND
W.M.P.NOS.24446 AND 24447 OF 2021

(THROUGH VIDEO CONFERENCING)

M.Kamaraj

... Petitioner

Vs

1. The Commissioner,
Directorate of Adi Dravidar Welfare,
Chepauk, Chennai 600 005

2. The District Adi Dravidar and
Tribal Welfare Officer,
Cuddalore District,
Cuddalore.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order issued by the 1st respondent in Na.Ka.No.A2/9787/2020 dated 13.09.2021 (served on the petitioner on 05.10.2021) and to quash the same and consequently directing the respondents to allow the petitioner to continue to work as P.G.Assistant (Physics) in Government Adi Dravidar Welfare Higher Secondary School, Vandurayanpattu, Cuddalore District with all consequential service benefits.

For Petitioner : Mr.G.Sankaran

For Respondents: Mr.V.P.R.Elamparithi
Government Advocate

ORDER

The petitioner was originally transferred from Thiruvallur to Vandurayanpattu Government ADW High School based on the representation dated 05.10.2020.



2.The petitioner has now been transferred by the 1st respondent vide impugned order dated 13.09.2021 on administrative grounds. No reasons have been given in the impugned order for transferring the petitioner from Cuddalore to Chengalpattu.

3.The learned counsel for the petitioner submits that in Cuddalore at Vandurayanpattu Government ADW High School the petitioner was issued with the show cause notice based on the allegations that the petitioner had not surrendered the computer when he was transferred from Thiruvallur and that the petitioner had utilized 200 A4 white sheets xeroxing papers and that he had instigated the students to approach the Headmaster for getting copies of questions papers for Unit Test for Physics subject on 17.03.2021 and on few other grounds.

4.It is the submission of the petitioner that the impugned transfer is punitive as the petitioner has been issued with the show cause notice by the 1st respondent pursuant to complaint by the Headmaster on 17.03.2021.

5.The learned counsel for the petitioner submits that the transfer is clearly a violation on the decisions of the Hon'ble Supreme Court in Somesh Tiwari Vs. Union of India 2009 (2) SCC 592 wherein it has been held that there cannot be any order of transfer on complaints that may resulting in penal transfer which could not be passed without providing an opportunity or by conducting enquiry.

6.He further submits that even if the petitioner is to be transferred., there are several other schools in Cuddalore district where there are vacancies.

7.Prima facie it appears that the transfer is punitive. Under these circumstances, the impugned order of transfer shall remains suspended for a period of three months from the date of receipt of a copy of this order. Meanwhile, the petitioner is therefore directed to send appropriate representation to the 1st respondent with the request to re-transfer him to any of the School mentioned in Clause F of the ground.

8.The 1st respondent shall consider the aforesaid representation and pass appropriate orders on merits and in accordance with law. In case, indeed there is a vacancy in any



other schools mentioned in the Cluase F of the grounds, the 1st respondent may accommodate the petitioner.

9.This Writ petition stands disposed with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Directorate of Adi Dravidar Welfare,
Chepauk,
Chennai 600 005
2. The District Adi Dravidar and Tribal Welfare Officer,
Cuddalore District,
Cuddalore.

+1cc to Mr.G.Sankaran, Advocate, S.R.No.55664
+1cc to the Government Pleader, S.R.No.55835

W.P. No.23157 of 2021
and
W.M.P.No.24446 and 24447 of 2021

MG (CO)
PM/29/11/2021