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W.P.(MD) No.26631 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.26631 of 2019

and

W.M.P. (MD) Nos.22973, 22974 & 22976 of 2019

1.Manjula

2.M.Leena Roselin

3.V.Sathya Jothi

4.N.Theresita

5.R.Sumathi

... Petitioners

-vs-

1.The Secretary

State Government of Tamil Nadu
Department of School Education
Secretariat, Fort St.George
Chennai-600 009

2.The Director of School Education
Directorate of School Education
College Road, Chennai-600 006

3.The Chief Educational Officer
O/o.The Chief Educational Officer
Trichy, Trichy District

4.S.Shanthi

5.L.Valli

6.Jeyanthi

7.K.Senthamizh Selvi

8.P.Narashiman

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned orders in

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Na.Ka.No.9588/A2/EE3/2018, dated 20.11.2019 transferring and posting of the respondent Nos.5 to 8 in Thiruverumbur Union in Trichy District, on the file of the respondent No.3 to post the petitioners / the deployed teachers back to Thiruverumbur Union in Trichy District, within the time stipulated by this Court.

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For Petitioners : Mr.S.Louis
For Respondents : Mr.A.K.Manikkam
Government Counsel for R1 to R3

O R D E R

The prayer in this writ petition is for issuance of a writ of certiorarified mandamus to quash the transfer orders, dated 20.11.2019, passed by the third respondent and to direct the third respondent to post the petitioners in Thiruverumbur Union, Trichy District, within the time stipulated by this Court.

2. According to the petitioners, they are Secondary Grade Teachers and were working in various Schools in Thiruverumbur Union. Whileso, on 01.08.2012, they were deployed from Thiruverumbur Union to other Unions within Trichy District, on the assurance that they would be brought back to Thiruverumbur Union as and when vacancies arise in future and their seniority would be maintained in Thiruverumbur Union. However, contrary to such assurance, the third respondent has passed the impugned orders posting the respondents 5 to 8 in the vacancy arose in Thiruverumbur Union by way of transfer. Aggrieved over the same, the petitioners have filed the present writ petition.

3. The third respondent has filed a counter affidavit stating that there is no instruction in the policy decision of the Government for general transfer for the year 2019 with regard to posting of Teachers, who are already transferred on deployment to other Unions. The impugned transfer was made in accordance with the guidelines for the general transfer for the year 2019-2020. That apart, the seniority of the petitioners herein is maintained in Thiruverumbur Union only and hence, no prejudice would be caused to the petitioners due to the impugned orders. Further, the Honourable Supreme Court as well as the High Courts, in catena of decisions, have categorically held that transfer can never be claimed as a matter of right by the Government employee and it is an incidental to service, more so, a condition of service. The Government servants cannot claim the place or post as a matter of choice and they are duty bound to work wherever they are posted. In such circumstances, the petitioners have no right to claim transfer to their parent Union on the guise of the condition imposed.



4. Heard the learned counsel on either side and perused the material available on record.

5. On perusal of the materials available on record, it is seen that the impugned orders were passed in the year 2019 and the writ petition was filed in the year 2019 and till date, there is no interim order in favour of the petitioners. Therefore, at this distance of time, the question of granting the relief as sought for by the petitioners does not arise and hence, the writ petition deserves to be dismissed.

6. In ***State of U.P. and others vs. Siya Ram and others [(2004) 7 SCC 405]***, the Honourable Supreme Court has held that unless the order of transfer is shown to be an outcome of *mala fide* exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the employer / management, as against such orders passed in the interest of administrative exigencies of the service concerned.

7. Further, in ***Airports Authority of India vs. Rajeev Ratan Pandey and others [(2009) 8 SCC 337]***, the Honourable Supreme Court has held that in the matter of transferring Government employees, the scope of judicial review is limited and the High Courts should not interfere with an order of transfer lightly.

8. In view of the above, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

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To:

1. The Secretary,
State Government of Tamil Nadu,
Department of School Education,
Secretariat, Fort St. George,
Chennai-600 009.
2. The Director of School Education,
Directorate of School Education,
College Road, Chennai-600 006.
3. The Chief Educational Officer,
O/o. the Chief Educational Officer,
Trichy, Trichy District.

+1 CC to M/s.SPL.GP (SR-29846[F] dated 22/09/2021)

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and**

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20.09.2021**

SMV (CO)

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