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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.2423 of 2022

and

W.M.P.Nos.2596 to 2598 of 2022

L.Manoharan

... Petitioner

vs.

1. The Commissioner of School Education,
DPI Campus, College Road,
Nungambakkam, Chennai - 600 006.
2. Chief Educational Officer,
Office of the Chief Educational Officer,
Salem District,
Salem.
3. The District Educational Officer,
Office of the District Educational Officer,
Salem District,
Salem.
4. Head Master,
Municipal Boys Higher Secondary School,
Paavadi, Salem - 636 001.
5. S.Ravi
Head Master,
Municipal Boys Higher Secondary School,
Paavadi, Salem - 636 001.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings issued by the 2nd respondent in Na.Ka.No.7181/E1/2020 dated 25.01.2022 transferring the petitioner from Paavadi to Thirumanoor and a consequential relieving order in Na.Ka.No.03/2022 dated 01.02.2022 issued by the 4th respondent and quash the same and consequently direct the respondents 1 and 2 to restore the services of the petitioner in the 4th respondent school as Post Graduate Assistant-Physics.



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For Petitioner : M/s.L.Parvinbanu

For Respondents: Mrs.P.Rajarajeswari
Government Pleader (for R1 to R4)

No Appearance (for R5)

O R D E R

This writ petition has been filed seeking to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings issued by the 2nd respondent in Na.Ka.No.7181/E1/2020 dated 25.01.2022 transferring the petitioner from Paavadi to Thirumanoor and a consequential relieving order in Na.Ka.No.03/2022 dated 01.02.2022 issued by the 4th respondent and quash the same and consequently, direct the 1st and 2nd respondents to restore the services of the petitioner in the 4th respondent school as Post Graduate Assistant-Physics.

2. According to the writ petitioner, he was working as BT Assistant at Thasanayakkanpatti Higher Secondary School, Salem District, where he was declared as surplus staff and transferred to Government Girls Higher Secondary School, Nangavalli on 10.07.2019. Thereafter, he was transferred to Municipal Boys Higher Secondary School, Paavadi, Salem District. The petitioner made a complaint dated 18.02.2021 against the 5th respondent herein to the Department of Anti-Corruption and CM Cell regarding illegal collection of money from the students at the time of admission. While the said complaint is pending, the 4th respondent issued a show cause notice dated 31.03.2021 to the petitioner for alleged non-submission of weekly notes of lessons for his concurrence. The petitioner came to know that the alleged complaint made by the 4th respondent only through the show cause notice dated 13.07.2021 issued by the 2nd respondent. The petitioner attended the school regularly and he was not allowed to sign in the attendance register and during the covid time, the Head Master will close the online attendance using their user ID and Password. Thereafter, the charges have been framed against the petitioner under Rule 17(B) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules, 1955. The petitioner submitted his explanation for the alleged charges and the 2nd respondent has suddenly passed the impugned transfer order dated 25.01.2022 transferring the petitioner from the present station to the Government Higher Secondary School, Thirumanoor, Salem District for making an alleged incidents. Therefore, according to the petitioner that the said impugned transfer order is punitive in nature and it is liable to be quashed.



3. The counter affidavit filed by the 2nd respondent, wherein it is stated that the petitioner has been transferred for the administrative reasons and according to the respondents that four charges have been framed against the petitioner by the Chief Educational Officer, Salem, by his Proceedings in Na.Ka.No.7181/C1/2020 dated 05.08.2021 for the disobedience to his higher officials, attempt to assault the headmaster, his deliberate frequent unpunctuality, refusal to discharge due duties, wanton absenteeism, resorting to indecent physical and verbal behaviour with women colleagues including others. Therefore, the said act of the petitioner is violative of Sections 20(1), 20(3)(i), 20(3)(iv), 20(b)2(e) of the Tamil Nadu Government Servants Conduct Rules, 1973.

4. On considering the petitioner's behaviour, the authority has initiated the disciplinary proceedings against the petitioner and further, the continued presence of the petitioner in the school proved to be considerable threat. Therefore, in the interest of administration and as per the rules, the said impugned transfer order has been passed.

5. On considering the reasons as stated by the 2nd respondent, interest of students and better administration of the school, the impugned order has been passed because of the allegations have been made by the petitioner against the Headmaster of the 4th respondent-school and the Headmaster also made an allegation against the petitioner and charges have been framed against the petitioner by the Department. Therefore, the said impugned transfer order would not be interfered at this stage and the said impugned transfer order passed by the 2nd respondent in the interest of administration. Hence, the contention of the learned counsel for the petitioner is liable to be rejected.

6. But, however, the learned counsel for the petitioner made submissions that all the charges were framed against the petitioner, are false. According to the petitioner that the petitioner already made a complaint against the Headmaster for illegally collecting additional money from the students at the time of admission in the school. To take an revenge on that, the present allegation has been made and therefore, this complaint and the counter complaint made by the parties have to be enquired by the authorities concerned and to take appropriate decision.

7. In view of the above, this Court is inclined to direct the Chief Educational Officer, Salem District to appoint an Enquiry Officer to complete the enquiry and to proceed with the charges framed against the petitioner and also the complaint made by the petitioner as against the 5th respondent. Based on



the final report of the Enquiry Officer, the Chief Educational Officer, Salem District/the 2nd respondent shall consider the petitioner's request for re-transferring him to the present station or to the nearby station.

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8. With the above observations, the writ petition stands disposed of. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar(CS-ix)

//True Copy//

Sub Assistant Registrar

dm

To

1. The Commissioner of School Education,
DPI Campus, College Road,
Nungambakkam, Chennai - 600 006.
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Office of the Chief Educational Officer,
Salem District,
Salem.
3. The District Educational Officer,
Office of the District Educational Officer,
Salem District,
Salem.
4. Head Master,
Municipal Boys Higher Secondary School,
Paavadi, Salem - 636 001.

+1cc to Mr.L.Parvin Banu, Advocate, S.R.No.18121

+1cc to the Government Pleader, S.R.No.18799

W.P.No.2423 of 2022

RK(CO)

SB(06/04/2022)