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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MRS.JUSTICE N.MALA

W.A.No.829 of 2022

1.The Chief Educational Officer,
Namakkal District,
Namakkal.

2.The District Educational Officer,
Namakkal District,
Namakkal.

3.The Block Educational Officer,
Namakkal District,
Namakkal.

...Appellants

Vs

A.Rajeswari

...Respondent

Prayer : Writ Appeal filed under Clause 15 of Letter Patent Act, to set aside the order dated 18.02.2022 made in W.P.No.1217 of 2022 and allow the Writ Appeal.

Prayer in W.P.No.1217 of 2022 : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, Calling for the records of the issued by the 2nd Respondent in Na.Ka.No.10974/A7/2021 dated 05.01.2022 and consequential order of the 3rd Respondent issued in Na.Ka.02/A4/2021 dated 05.01.2022 and quash the same and to issue consequential directions to the Respondent to allow the petitioner to serve as secondary Grade Teacher at Panchayat Union Elementary School, Perumapatty.

For Appellants : Mr.V.Nanmaran
Additional Government Pleader

For Respondent : Mr.M.Ravi



J U D G M E N T

S.VAIDYANATHAN., J
and
N.MALA., J

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The Present Appeal has been preferred against the order of the learned Single Judge dated 18.02.2022, made in W.P.No.1217 of 2022, in interfering with the order of transfer on the ground that the transfer order issued to the Writ Petitioner is not on administrative reasons, but on account of complaint received against the headmistress of the school.

2. The learned Additional Government Pleader appearing for the Appellants submitted that in respect of a complaint received against the Headmistress of the School, the Appellants, after conducting enquiry, found that the Writ Petitioner, being a Secondary Grade Teacher induced the parents not to send their children to school and acted in support of the Headmistress. Hence, the order of transfer was issued to both Headmistress and the Writ Petitioner on administrative ground, but the learned Single Judge wrongly came to the conclusion that the order of transfer issued against the Writ Petitioner was with malafide intention.

3. The learned counsel appearing for the Respondent/Writ Petitioner submitted that complaint was received only against the Headmistress of the School and an enquiry was conducted against her. However, all of a sudden, the Writ Petitioner was transferred with an epithet "on administrative grounds" without even conducting any enquiry. He further submitted that the learned Single Judge has rightly interfered with the Transfer Order, which does not warrant any interference by this Court.

4. Heard both sides. Perused the records.

5. A reading of the proceedings passed by the 2nd Appellant dated 05.01.2022, would make it clear that there are some allegations only against the Headmistress, and it is not known on what basis the name of the Writ Petitioner was included in the alleged incident without there being any material to connect her with it. However, the learned Judge, while interfering with the order of transfer, has granted liberty to the Appellants, if necessary, to issue fresh orders, in accordance with law, leaving open to the Appellants to proceed with the disciplinary proceedings against the Writ Petitioner based on the complaint, if any received earlier.

6. In view of the above, we are not inclined to interfere with the order of the learned Single Judge.



7. In the result, this Writ Appeal stands dismissed. However, it is made clear that if there is any problem in any of the organizations by an employee, it is open to the employer to place the employee under suspension, and, if needed, he/she can be transferred to any place and after revocation of suspension, he/she may be posted in a non sensitive post, as per the guidelines of the Hon'ble Supreme Court in the case of Ajay Kumar choudry Vs. Union of India through its Secretary and another [(2015) 7 SCC 291]. The Full Bench of this Court in the case of P.Kannan Vs. The Commissioner for Municipal Administration and Others (W.P.Nos.2165 of 2015 and 21628 of 2018 dated 15.03.2022) has held that it is open to the employer to revoke the suspension and place a person in a non sensitive post. If a person is transferred on the basis of a complaint, it would amount to stigma and in that event, there is a possibility of the Court to interfere with the order of transfer. In order to avoid that, the delinquent employee can be suspended and the order of suspension can subsequently be revoked, so as to transfer and place him in a non sensitive post and in that case, the question of stigma will not arise. No costs.

Sd/-
Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

arr

To

- 1.The Chief Educational Officer,
Namakkal District,
Namakkal.
- 2.The District Educational Officer,
Namakkal District,
Namakkal.
- 3.The Block Educational Officer,
Namakkal District,
Namakkal.

+1cc to the Government Pleader Sr.No.23382

W.A.No.829 of 2022

RSV(CO)
RVM(05/05/2022)