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W.P.No.19067 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.19067 of 2014
and
M.P.Nos.1, 2 & 3 of 2014

S.Kalaiselvi

... Petitioner

Vs.

1.Director,
Elementary Education,
DPI Campus, Nungambakkam,
Chennai – 600 006.

2.R.Ramakrishnan,
Chief Educational Officer,
Nagapattinam.

3.District Elementary Educational Officer,
Nagapattinam District, Nagapattinam.

4.Asst. Elementary Educational Officer,
Sirkali Union, Sirkali.

5.Mrs.Rajeswari

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to recall the orders of the 2nd and 3rd respondents dated 25.06.2014, transferring the 5th respondent to Senthangudi Panchayat Union Primary School and transferring the petitioner from Thiruvidangan Panchayat Union Primary School to



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Thirunagari Panchayat Union Primary School dated 24.06.2014 and consequently direct the respondents to post the petitioner as Secondary Grade Teacher in the vacancy at Senthangudi Panchayat Union Middle School, w.e.f. 24.06.2014 because not showing the vacancy at the time of deployment counseling is illegal, arbitrary, vindictive, contrary to G.O.137 dated 09.06.2014 and favouritism.

For Petitioner : Mr.N.G.R.Prasad

For R1, R3 & R4 : Mr.S.Silambanan
Additional Advocate General
Assisted by
Mrs.S.Anitha
Special Government Pleader

For R2 and R5 : No Appearance

ORDER

The relief sought for in the present writ petition is to direct the respondents to recall the orders of the 2nd and 3rd respondents dated 25.06.2014 transferring the 5th respondent to Senthangudi Panchayat Union Primary School and transferring the petitioner from Thiruvudangan Panchayat Union Primary School to Thirunagari Panchayat Union Primary School dated 24.06.2014 and consequently direct the respondents to post the petitioner as Secondary Grade Teacher in the vacancy at Senthangudi Panchayat Union Middle School, w.e.f. 24.06.2014 because not showing the vacancy at the time of deployment counselling is illegal, arbitrary, vindictive, contrary to G.O.137 dated 09.06.2014 and favouritism.



2. The petitioner states that she was working as Secondary Grade Teacher in Radhanallur Panchayat Union Primary School and declared as surplus and deployed to Thilaividangan Panchayat Union Primary School in Sirkali Union.

3. The learned counsel for the petitioner made a submission that the vacancy at Senthangudi Panchayat Union Middle School was not notified in the counselling conducted on 24.06.2014 and the petitioner was deprived from exercising her option to choose the said place, which was vacant during the relevant point of time, when the petitioner was declared as surplus.

4. The learned counsel for the petitioner reiterated that the 5th respondent Smt.Rajeswari was transferred to the vacant place at Senthangudi Panchayat Union Middle School on administrative grounds. The said order has been questioned by the petitioner on the ground that when all other vacancies are notified for counselling, the said post alone has been filled up by transferring the 5th respondent on extraneous consideration. When all other vacancies are notified for counselling and the eligible teachers had provided an opportunity to exercise their option, the post at Senthangudi Panchayat Union Middle School alone was not



notified as vacant, in order to accommodate the 5th respondent in the said School.

5. However, the fact remains that the 5th respondent joined in the said school at Senthangudi Panchayat Union Primary School and working for the past about 8 years continuously. In respect of administrative transfer as per the Government policy, the employee may be allowed to continue for a period of 3 years. In the present case, the 5th respondent has already been allowed to serve in the same post at Senthangudi for about 8 years.

6. This being the factum, the 5th respondent is due for further transfer as she has completed more than 3 years of service in the same post and the writ petitioner is also continuing in the same post.

7. In view of the facts and circumstances, the 5th respondent is liable to be transferred and the said post is to be kept as vacant during the counselling and the petitioner also must given an opportunity to participate in the counselling to be held in respect of the said post at Senthangudi Panchayat Union Primary School.



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8. With these observations, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes

Speaking order : Yes

To

- 1.The Director,
Elementary Education,
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Chennai – 600 006.
- 2.The Chief Educational Officer,
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- 3.The District Elementary Educational Officer,
Nagapattinam District, Nagapattinam.
- 4.The Assistant Elementary Educational Officer,
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S.M. SUBRAMANIAM, J.

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