



W.P(MD).No.14325 of 2010

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 13.07.2022

ORDER PRONOUNDED ON : 22 .07.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.14325 of 2010

1.T.Sulochanan

2.Shreenadh

...Petitioners

Vs

1.The Secretary to Government
Elementary Education
Secretariat
Chepauk, Chennai – 5

2.The Director of School Education
College Road, Chennai

3.The District Collector
Kanyakumari District
Nagercoil

4.The Chief Educational Officer
Kanyakumari District
Nagercoil

5.The District Educational Officer
Kanyakumari District Nagercoil

6.The District Elementary Educational Officer
Kuzhithurai Range
Kuzhithurai
Kanyakumari District



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7.The Assistant Elementary Educational Officer
Kuzhithurai Range
Kuzhithurai
Kanyakumari District

8.The Headmaster
Government Primary School
Orunooranvayal
Arumanai Post
Kanyakumari District

....Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to pay a compensation amount of Rs.20,00,000/- with interest 6% per annum jointly and severally for the illegal tortuous act culpable commission or omission misfeasance, malfeasance and nonfeasance committed by the respondents which caused the death of the Headmistress J.Remani, the wife of the first petitioner and mother of the second petitioner.

For Petitioners : Mrs.Chamundi Bose

For Mr.I.Karuppiah

For Respondents : Mr.V.Nirmal Kumar

Additional Government Pleader

ORDER

The present writ petition has been filed seeking mandamus directing the respondents to pay compensation of Rs.20,00,000/- with 6% interest per annum jointly and severally for the illegal tortuous act, culpable commission



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or omission misfeasance, malfeasance and nonfeasance committed by the respondents which caused the death of the Headmistress J.Remani, the wife of the first petitioner.

2.It is contended in the writ petition that the first petitioner is the husband and the second petitioner is the minor son of one deceased J.Remani. The said J.Remani was working as a Headmistress in the Government Primary School at Orunooranvayal near Arumanai, Kanyakumari District which was under the control of the seventh respondent herein. While she was working there, she passed away on 13.01.2009. According to the first petitioner, the School is located in the midst of thick forest situated in Western Ghats in a hill village called Orunooranvayal and it is a hostile intimidating hill terrain. The said Remani was residing in Mukkottukkal, Manjalumoodu Post in Arumanai and she has to reach the School by travelling in three buses. Thereafter, she has to walk for 3 kilometers through forest to reach the School. According to the first petitioner, though the Educational authorities were aware of these difficulties, the said authorities have not disclosed the fact that it was a difficult hilly forest.

3.According to the first petitioner though there are various men and women teachers who are young and qualified to be posted, with a malafide



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intention in order to save them, the first petitioner's wife was posted to the said School. According to the first petitioner, his wife had requested for a transfer on 13.08.2008. However, the said application was not considered and she was made to undergo the ordeal and she passed away on 13.01.2009.

4.The first petitioner had further contended that the School does not have any basic amenities and there was no infrastructure at all and hence, the first petitioner's wife was made to undergo several difficulties being a lady staff. Though the said complaint was brought to the knowledge of the Educational Authorities, they have not taken any steps to rectify the same. In view of the said difficult situation, she had to travel for nearly 40 kilometer every day to reach the School. Hence, her health got deteriorated and she was in medical leave in the month of August and September 2008 for a period of 37 days. Prior to the said Remani, only male teachers were used to be posted as Headmaster in the said School.

5.The entire exercise of the Educational Authorities in placing the writ petitioner's wife in such a difficult terrain and compelling her to continue without considering the request for transfer, has resulted in death of the said Remani. Hence, the writ petitioners have prayed for payment of compensation for a sum of Rs.20,00,000/-.



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6.Per contra, the learned counsel for the respondents authorities have filed a counter contending that the first petitioner's wife had died a natural death due to heart attack. The first petitioner's wife had chosen the School on the basis of promotion and on her own willing. No one had compelled her to choose the particular School. According to the learned counsel for the respondents, the said School upgraded as Primary School in the year 2008 -2009. When the first petitioner's wife had sought for medical leave, she was immediately granted leave for a period of 37 days. After her death, death cum gratuity has been paid and the family pension has also been regularly disbursed to the first petitioner herein. The Educational Authorities or the Government are no way responsible for the death of the first petitioner's wife. She had died due to natural reason out of heart attack. Hence, the petitioners would not be entitled to claim any compensation from the Government.

7.The learned counsel for the petitioners had contended that if the request for transfer had been considered, she would not have been suffered to this much cruelty and she would have been alive today. The Educational Authorities have wantonly posted the lady teacher to a School which was lacking in all basic amenities and infrastructure. The School is located nearly 40 kilometers from the residents of the petitioners' house and she was forced to travel for so many hours to reach the School by changing three buses. Even



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thereafter, she has to walk nearly for 3 km to reach the School. All these factors have culminated in the deterioration of the health of the teacher and ultimately resulted in her death. Hence, the State which is responsible for the said act is liable to pay compensation.

8.On the other hand, the learned Additional Government Pleader appearing for the respondents had contended that the School has been chosen in promotion counselling by the teacher herself and there was no compulsion by any one of the authorities. The teacher has to reside within 8 kilometer from the School as per Government Servant Conduct Rules. She had been residing in a place which 40 kilometers away from the School, out of her own volition. Hence, she cannot complain against the Government authorities as if they have posted her in a School which was away from her place. When there is no negligence or any tortious act on the part of the Government, the petitioners are not entitled to any compensation.

9.I have considered the submissions made on either side and perused the materials available on record.

10.It is unfortunate that the first petitioner's wife had passed away on 13.01.2009 due to heart attack. The petitioners are attempting to connect the



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said heart attack with the posting of the teacher in a School which is located in a hilly terrain.

11.A perusal of the promotion order dated 09.11.2007 indicates that the deceased teacher has been promoted as a Headmistress and appointed to a Government Primary School which is located in a hilly area. While the said teacher was alive, she has sent a request on 13.08.2008 requesting that she may be demoted as Secondary Grade Teacher and be appointed in any School within the Kuzhithurai Educational limit. In the said request, she had specifically stated that only after appointing in the Primary School as a Headmistress, she came to know that the School is lacking in basic amenities. Hence, it is clear that the allegation in the present writ petition that the respondents authorities have posted the writ petitioner to the said School with a malafide intention is not factually correct. On the other hand, the said teacher has chosen the School on her own volition on being promoted as a Headmistress.

12.The request of the teacher for demoting her was made on 13.08.2008. It was not a simple request for demotion, but she requested the authorities to post her in Kuzhithurai Educational Zone. Hence, this is a request for transfer in the middle of the academic year. Normally such requests are entertained only at the fag end of the academic year. However, a



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request for demotion has to be considered by the higher authorities and the consequence of the demotion has to be worked out. Therefore, we cannot find fault with the authorities for not immediately taking action on the request of the said teacher for demotion and transfer.

13.The first petitioner has further complained that his wife was forced to travel nearly 40 kilometer every day to reach the School and this has resulted in deterioration of her health and it resulted in heart attack and ultimately she passed away. The first petitioner's wife has participated in the promotion counselling and she has chosen the said place on her own volition. There is no proof whatsoever that she was compelled to choose the said School. That apart, being a Government Servant, transfer is an incident of service and the teacher cannot make any complaint that she is being posted to a hilly terrain. In fact, the said School has been opened for the welfare of the Tribal children. It is also not the case of the writ petitioners that she was already posted to a School in a hilly terrain and continuously she is being posted to such a place. Hence, posting of a Government servant in a hilly terrain for a particular period of time cannot be considered to be a harassment or a punishment, especially when she is promoted and posted as Headmistress of the said Primary School.

14.The lack of basic amenities and infrastructure facilities in the School have been there for so many years. As per contention of the



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respondents authorities, the School has also been upgraded in the year 2008-2009 thereby indicating that the School has got proper infrastructure facilities. The lack of infrastructure facilities cannot be cited as a ground for not accepting appointment to a particular place assuming that the School lacks certain basic amenities.

15. Viewed from any angle, the unfortunate death of the first petitioner's wife has happened due to natural causes and it cannot in any way be attributed to her posting in a particular School. When the Government authorities cannot be found fault with for the posting of the first petitioner's wife, they cannot be held responsible for the unfortunate death of the first petitioner's wife. It is brought to the notice of the Court that all the terminal benefits have been disbursed. The respondents authorities are also regularly paying the family pension to the husband of the deceased teacher.

16. In view of the above said discussion, I do not find any merit in the writ petition. The writ petition stands dismissed. No costs.

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Internet : Yes/No
Index : Yes/No
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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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