

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
01.03.2022	04.03.2022

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) Nos.429, 644, 787 & 807 of 2022

and

W.M.P. (MD) Nos.327, 328, 517, 518, 609, 612, 652, 653 & 667 of 2022

W.P. (MD) No.429 of 2022:

- 1.O.Selvam
- 2.S.Sivakumar
- 3.M.Palpandi
- 4.K.Venkatesan
- 5.M.Indira
- 6.R.Venkatraman
- 7.A.Iyappan
- 8.Y.L.Rajamohan
- 9.S.George Benet
- 10.S.Jeyaram
- 11.R.Sureshkumar
- 12.M.Ananth

... Petitioners

vs.

- 1.The Commissioner of School Education
O/o.Commissioner of School Education
Nungambakkam
Chennai
- 2.The Joint Director of School Education (Personnel)
O/o.the Joint Director of School Education
Chennai-600 006
- 3.The Chief Educational Officer
Dindigul District, Dindigul
- 4.The Chief Educational Officer
Theni District, Theni
- 5.The Chief Educational Officer
Madurai District, Madurai



6.The Chief Educational Officer
Kanyakumari District
Kanyakumari

7.The Chief Educational Officer
Ramanathapuram District
Ramanathapuram

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorari calling for the records relating to the impugned order passed by the 2nd respondent in his proceedings Na/Ka/No.69836/C2/E1/2021, dated 06.01.2022 and quash the same as illegal.

For Petitioners : Mr.M.Ajmal Khan, Senior Counsel
for M/s.Ajmal Associates

For Respondents : Mr.Veera.Kathiravan
Additional Advocate General
assisted by Mr.S.P.Maharajan
Special Government Pleader

W.P. (MD) No.644 of 2022:

M.Syed Ibrahim

... Petitioner

vs.

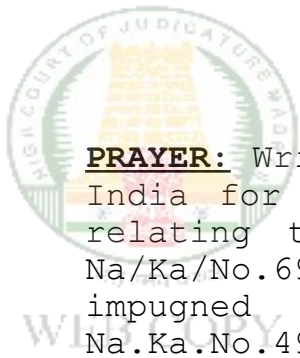
1.State of Tamil Nadu
rep.by its Principal Secretary to Government
School Education Department
Fort, St.George, Secretariat
Chennai-600 009

2.The Commissioner of School Education
DPI Campus, College Road
Chennai-600 006

3.The Joint Director of School Education (Personal)
DPI Campus, College Road
Chennai-600 006

4.The Chief Educational Officer
Tenkasi District, Tenkasi

... Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorari calling for the records relating to the impugned order issued by the 3rd respondent in Na/Ka/No.69836/C2/E1/2021, dated 06.01.2022 and the consequential impugned order passed by the fourth respondent in Na.Ka.No.4934/A3/2021, dated 07.01.2022 and quash the same.

For Petitioner : Mrs.L.Victoria Gowri

For Respondents : Mr.Veera.Kathiravan
Additional Advocate General
assisted by Mr.S.P.Maharajan
Special Government Pleader

W.P. (MD) No.787 of 2022:

S.Kannan ... Petitioner

vs.

- 1.State of Tamil Nadu
rep.by its Principal Secretary to Government
School Education Department
Fort St.George, Secretariat
Chennai-600 009
- 2.The Commissioner of School Education
DPI Campus, College Road
Chennai-600 006
- 3.The Joint Director of School Education (Personal)
DPI Campus, College Road, Chennai-600 006
- 4.The Chief Educational Officer
Tenkasi District, Tenkasi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorari calling for the records relating to the impugned order passed by the 3rd respondent in Na.Ka.No.69836/C2/E1/2021, dated 06.01.2022 and the consequential impugned order passed by the fourth respondent in Na.Ka.No.4934/A3/2021, dated 07.01.2022 and quash the same.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.Veera.Kathiravan
Additional Advocate General
assisted by Mr.S.P.Maharajan
Special Government Pleader



W.P. (MD) No.807 of 2022:

K.Shanthi

... Petitioner

vs.

- 1.The Commissioner of School Education
O/o.Commissioner of School Education
Nungambakkam, Chennai
- 2.The Joint Director of School Education (Personnel)
O/o.the Joint Director of School Education
Chennai-600 006
- 3.The Chief Educational Officer
Karur District, Karur
- 4.The District Educational Officer
O/o.District Educational Office
Karur Taluk, Karur District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorari calling for the records relating to the impugned order passed by the 2nd respondent in his proceedings Na.Ka.No.69836/C2/E1/2021, dated 06.01.2022 and quash the same as illegal.

For Petitioner : Mr.M.Ajmal Khan, Senior Counsel
for M/s.Ajmal Associates

For Respondents : Mr.Veera.Kathiravan
Additional Advocate General
assisted by Mr.S.P.Maharajan
Special Government Pleader

C O M M O N O R D E R

Since the issue involved in all the writ petitions is one and the same, they were clubbed together, heard together and are being disposed of by this common order.

2. The *lis* on hand has been instituted questioning the validity of the proceedings of the Joint Director of School Education, dated 06.01.2022 and the consequential proceedings of the Chief Educational Officer, dated 07.01.2022.

3. To be noted, the proceedings, dated 06.01.2022, issued by the Joint Director of School Education, is an instruction issued to the Chief Educational Officers across the State. In other words, it is a circular issued by the Joint Director of School Education to all the Chief Educational Officers.



4. Some petitioners were initially appointed as B.T.Assistants and some petitioners were promoted as B.T.Assistants from the post of Secondary Grade Teacher. All the petitioners have passed Deputy Inspector's Test and other requisite Tests as per the Rules and became qualified to be transferred and posted as Deputy Inspector of Schools, which is the equal cadre of B.T.Assistant carrying identical scale of pay. The post of Deputy Inspector of Schools is governed by the Special Rules for Tamil Nadu Educational Subordinate Service and by virtue of the qualifications and tests passed by the B.T.Assistants, they were transferred and posted as Deputy Inspector of Schools. Through the impugned order, dated 06.01.2022, the Joint Director of School Education directed the Chief Educational Officer of the respective Districts to transfer and post the Deputy Inspectors of Schools as B.T.Assistants on or before 07.01.2022 and the said proceedings is resulted in filing of the present writ petitions by the the petitioners.

5. Mr.M.Ajmal Khan, learned Senior Counsel, appearing for the petitioners in W.P.(MD) Nos.429 & 807 of 2022, mainly contended that the direction issued in the impugned proceedings stipulates that the Deputy Inspectors of Schools are to be transferred as B.T.Assistants within one day and there is absolutely no reason for such urgency. No procedures are contemplated for transferring the Deputy Inspectors of Schools as B.T.Assistants. The power conferred on the Chief Educational Officers will result in colourable exercise of power leading to unreasonable action. The Special Rules for Tamil Nadu Educational Subordinate Service was superseded and Tamil Nadu Elementary Education Subordinate Service Rules (for brevity "Special Rules") were issued vide G.O.Ms.No.12, School Education Department, dated 30.01.2020. As per the said Rules, the post of Deputy Inspector of Schools falls under Class-I Category-1 and the post of Graduate Teacher comes under Class-I Category-2. The said Rules contemplate the method of appointment of each posts. The post of Deputy Inspector of Schools can be filled up by transfer from Category-2 of Class-I on acquiring the qualifications prescribed under the Rules. However, the Special Rules do not permit transfer of Deputy Inspector of Schools to the post of B.T.Assistant. Thus, the circular issued by the Joint Director of School Education and the consequent orders passed by the Chief Educational Officer are contrary to the Special Rules for the Tamil Nadu Elementary Education Subordinate Service.

6. The learned Senior Counsel reiterated that the post of Deputy Inspector of Schools can be filled up by the Graduate Assistant (otherwise called as B.T.Assistant), whereas the post of Graduate Teacher cannot be filled up from the post of Deputy Inspector of Schools, as there is no provision in the Rules. When the statute prescribes a particular thing should be done in the particular manner, it should be done only in the same manner as



prescribed under the statute. In this regard, the learned Senior Counsel relied on the

6.1. decision of the Honourable Supreme Court in the case of **Zuari Cement Limited vs. Regional Director, Employees' State Insurance Corporation, Hyderabad and others**, reported in (2015) 7 SCC 690, wherein, in Paragraph No.14, the Apex Court has observed as follows:

"14. As per the scheme of the Act, the appropriate Government alone could grant or refuse exemption. When the statute prescribed the procedure for grant or refusal of exemption from the operation of the Act, it is to be done in that manner and not in any other manner. In **State of Jharkhand v. Ambay Cements [(2005) 1 SCC 368]**, it was held that:

"26. ... It is cardinal rule of interpretation that where a statute provides that a particular thing should be done, it should be done in the manner prescribed and not in any other way."

6.2. order dated 11.12.2020, passed by this Court in W.P.No.12252 of 2020 and Cont.P.No.825 of 2020 [**Dr.A.Jayachitra vs. The Principal Secretary / Member Secretary**], wherein, this Court, in Paragraph No.33, has observed as follows:

"33. In the absence of any administrative requirement or exigencies, any transfer order issued in such situation and terming the same as being issued on the ruse of administrative requirement, may have to ultimately pass the test of judicial review. Merely because the transfer order is couched in such hackneyed, oft repeated and routine administrative terminology, unless the reason set forth in the transfer order when questioned, is established factually to the satisfaction of this Court, a ritualistic and cliched expression "administrative reasons" in the transfer order, cannot be taken at its face value and the relief refused to the affected individuals. In this case, though the petitioner failed in other fronts of attack, ultimately, this Court finds that the transfer of the petitioner is not based on administrative requirement, but, for an extraneous reason and therefore, the transfer order is liable to be set aside only on that ground. As stated above, this Court perused the relevant files and did not discover a modicum of material supporting the respondent's plea of administrative requirement for transferring the



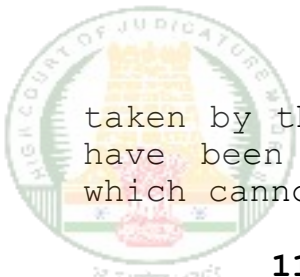
petitioner to Tiruvannamalai. It is well within the power of the Court to pierce the veil of the fig leaf behind the transfer order and to hold that the impugned action of the respondent authority stemmed from a colourful exercise of power on his part and hence, liable to be interfered solely on the well established legal premise namely the transfer is hit by malice in law."

7. Relying on the above decisions, the learned Senior Counsel submitted that even though in the old Rules there was a provision to transfer and post the Deputy Inspector of Schools as B.T.Assistant, in the new Rules there is no provision for such transfer and posting. Therefore, the impugned proceedings of the Joint Director of Schools Education and the other consequential orders passed by the Chief Educational Officers are liable to be set aside.

8. That apart, the learned Senior Counsel further drew the attention of this Court with reference to Rule 8 of the Special Rules, which contemplates that no person shall be eligible for appointment to the post of Deputy Inspector of Schools, unless he has passed the Tests prescribed. Rule 11 of the Special Rules is also relied upon. Therefore, only on acquiring the qualifications prescribed for the post of Deputy Inspector of Schools, transfer can be effected from the eligible B.T.Assistants and therefore, there is no provision to re-transfer the Deputy Inspector of Schools as B.T.Assistant.

9. Further, it is contended by the learned Senior Counsel that all the petitioners have got more experience in the cadre of Deputy Inspector of Schools and therefore, they must be allowed to continue in the same post. In view of the fact that the impugned circular is in the form of direction to the Chief Educational Officers, it affects the rights of the petitioners and therefore, the writ petitions are liable to be entertained. As far as Rule 11 of the Special Rules is concerned, it is applicable only in the case of transfer simplicitor i.e., among the Deputy Inspectors of Schools and it will not be applicable in respect of transfer of two different categories of posts as the Rules do not permit the same.

10. Mr.Veera.Kathiravan, learned Additional Advocate General, assisted by Mr.S.P.Maharajan, learned Special Government Pleader, appearing for the respondents, objected the above contentions raised by the learned counsel for the petitioners by stating that the posts of Deputy Inspector of Schools and B.T.Assistant are interchangeable. When the petitioners are transferred from B.T.Assistant to Deputy Inspector of Schools, they are liable to be transferred, if any administrative decision is

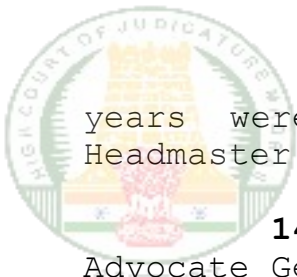


taken by the Authority Competent in this regard. The Special Rules have been misinterpreted by the petitioners to their advantage, which cannot be permitted.

11. The learned Additional Advocate General further contended that the post of Deputy Inspector of Schools is defined in Class-I Category-1 of re-issue of the Special Rules for Tamil Nadu School Educational Subordinate Service vide G.O.Ms.No.12, School Education Department, dated 30.01.2020. The post of Deputy Inspector of Schools is equivalent to the post of Graduate Teacher (Subjects, Tamil, English) defined in Class-I Category-2, Class-II, Class-III and Class-IV of the same service. Rule-2 of the Special Rules provides "Appointment". Sub-Rule (a) to Rule 2 of the Special Rules contemplates appointment to several classes and categories of the service to be made as contemplated under the Rules. The posts of Deputy Inspector of Schools and Graduate Teacher (Tamil, English, Maths, Science and Social Science) belong to the same cadre with identical scale of pay. But, pass in the departmental tests, such as District Office Manual, Tamil Nadu School Education Administrative Test-Paper I, Paper-II and Account Test for Subordinate Officers Part-I are mandatory for getting transfer to the post of Deputy Inspector of Schools from the post of Graduate Teacher as prescribed in Rule 8 of the Service Rules. Thus, anyone of the qualified Graduate Teachers possessing pass in departmental tests can be posted as Deputy Inspector of Schools by way of transfer. The post of Deputy Inspector of Schools is the administrative post in the Office of the District Educational Officer.

12. The learned Additional Advocate General further contended that if the monitoring staff in the administrative posts of the School Education Department such as P.A. to CEO (HSS HM Cadre), PA to CEO (High School HM Cadre) in the Chief Educational Offices and Deputy Inspector of Schools in DEO Offices, BRTE's working in various districts under the Samagra Shiksha Scheme, are allowed to work more than three years in the same station, the purpose of monitoring would lose it's merits. Hence, the Government took a policy decision vide G.O.Ms.No.134, School Education Department, dated 18.08.2021 to conduct zero counselling to 3700 BRTE's working in various districts under Samagra Shiksha Scheme as they are working more than seven years in the same station. The zero transfer counselling was conducted on 20.10.2021 and all total BRTEs were transferred by the Department.

13. Further, the learned Additional Advocate General contended that the District Educational Officers working more than two years in a particular educational district were transferred to other stations on 12.10.2021 by the Department. Similarly, the P.A. to CEO (Higher Secondary HM Cadre) and P.A. to CEO (High School HM Cadre) working in the Chief Educational Offices for more than three



years were transferred and posted as Higher Secondary School Headmaster / High School Headmaster respectively.

14. Further, it is contended by the learned Additional Advocate General that the impugned proceedings of the Joint Director of School Education and the consequential administrative transfer proceedings of the Chief Educational Officer are only continuation of the above said process in order to revamp the School Educational Department.

15. The learned Additional Advocate General reiterated that as far as the converted Deputy Inspector of Schools / B.T.Assistant is concerned, primacy should be given to B.T.Assistant vacancies. After conversion of Deputy Inspectors of Schools to B.T.Assistants, thereafter for the remaining vacancies of B.T.Assistant, the General Transfer counselling has to be conducted strictly adhering the general transfer counselling norms contemplated under G.O.Ms.No.176, School Education Department, dated 17.12.2021. No Deputy Inspector of Schools can have a vested right to remain the same post all along the entire service.

16. It is further contended by the learned Additional Advocate General that the transfer of Deputy Inspectors of Schools to B.T.Assistants in Schools would not alter any of the service conditions of the petitioners. Since these two posts are equivalent cadre with equal scale of pay and interchangeable, they are included in the panel for promotion as P.G.Assistants and High School Headmasters every year based on the date of regularization in the post of B.T.Assistant only as per seniority. They are not affected anyway and hence, there is no injustice caused to them and hence, prayed for dismissal of the writ petitions.

17. The learned Additional Advocate General, in support of his contentions, placed reliance upon the

17.1. decision of the Honourable Supreme Court in the case of **State of U.P. and others vs. Gobardhan Lal**, reported in **(2004) 11 SCC 402**, wherein, in Paragraph No.7, the Apex Court has observed as follows:

"7.It is too late in the day for any Government Servant to contend that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires. Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contra, in the law governing or conditions of service. Unless the order of transfer is shown to be an outcome of a mala fide exercise of power or violative of any statutory provision (an Act or



Rule) or passed by an authority not competent to do so, an order of transfer cannot lightly be interfered with as a matter of course or routine for any or every type of grievance sought to be made. Even administrative guidelines for regulating transfers or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments. This Court has often reiterated that the order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable rights, unless, as noticed supra, shown to be vitiated by mala fides or is made in violation of any statutory provision."

17.2. Decision of the Honourable Supreme Court in the case of **B.Varadha Rao vs. State of Karnataka and others**, reported in **(1986) 4 SCC 131**, wherein, in Paragraph No.4, the Apex Court has observed as follows:

"That a Government servant is liable to be transferred to a similar post in the same cadre is a normal feature and incident of Government service and no Government servant can claim to remain in a particular place or in a particular post unless, of course, his appointment itself is to a specified, non-transferable post. As the learned Judges rightly observe :

The norms enunciated by Government for the guidance of its officers in the matter of regulating transfers are more in the nature of guidelines to the officers who order transfers in the exigencies of administration than vesting of any immunity from transfer in the Government servants."

17.3. Decision of the Honourable Supreme Court in the case of **E.P.Royappa vs. State of Tamil Nadu and another**, reported in **1974 AIR 555**, wherein, the Apex Court has held



that transfer is also an implied condition of service and appointing authority has a wide discretion in the matter.

17.4. Decision of the Honourable Supreme Court in the case of **Rajendra Singh and others vs. State of Uttar Pradesh and others**, reported in **(2009) 15 SCC 178**, wherein, the Apex Court, has held as follows:

"A government servant has no vested right to remain posted at a place of his choice nor can he insist that he must be posted at one place or the other. He is liable to be transferred in the administrative exigencies from one place to the other. Transfer of an employee is not only an incident inherent in the terms of appointment, but also implicit as an essential condition of service in the absence of any specific indications to the contrary. No government can function if the government servant insists that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires."

18. Further, the learned Additional Advocate General provided certain statistics and submitted that during last ten years, number of Deputy Inspectors of Schools were transferred as B.T.Assistants.

19. However, the learned Senior Counsel appearing for the petitioners, objected the abovesaid contention by stating that those transfers were effected based on the old Rules, wherein such transfers are permitted, but under the new Rules, such transfers are not permitted.

20. Heard the learned counsel on either side and perused the materials available on record.

21. As far as the old Rules are concerned, even the learned Senior Counsel appearing for the petitioners has admitted that there is a provision for transfer of Deputy Inspectors of Schools as B.T.Assistants. Thus, this Court has to examine the scope of the new Special Rules issued on 30.01.2020, based on which the circular, dated 06.01.2022, has been issued. At this stage, it would be relevant to refer Rule 1 of the Special Rules, which deals with "Constitution", which is extracted hereunder:

"1. Constitution.- The Service shall consist of the following classes and categories, namely:-

Class

Category

(1)

(2)

I 1. Deputy Inspector of School

Graduate Teacher [Subjects]

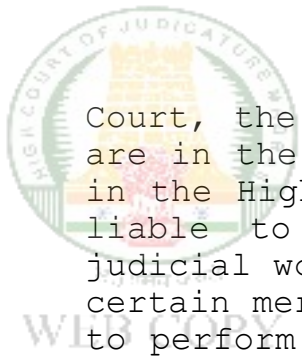


- II Graduate Teacher [Tamil]
- III Graduate Teacher [English]
- IV Graduate Teacher [Languages other than Tamil and English]
- V Secondary Grade Teacher
- VI 1. Craft Instructor
2. Art Master
3. Music Teacher
- VII 1. Physical Director
2. Physical Education Teacher."

22. The post of Deputy Inspector of Schools and Graduate Teacher (Subjects) are falling under Class-I Category-2. Rule 2 of the Special Rules denotes "Appointment". Sub-rule (a) to Rule-2 stipulates appointment to the several classes and categories of the service to be made and as per the said Rule, appointment for the post of Deputy Inspector of Schools is by transfer from Category-2 of Class - or Classes-II, III and IV in the service. Therefore, the post of Deputy Inspector of Schools may be filled up by transfer from Category-2 of Class I or Classes II, III and IV in the services.

23. Let us now compare the current Special Rules with the old Rules issued vide G.O.Ms.No.753, Education Department, dated 15.07.1985. As per the old Rules also, the appointment to the posts of Deputy Inspectors of Schools and School Assistants may be made by transfer from any Class or Category in the service on an identical scale of pay. Thus, it is made clear that the word "transfer" indicates that it can be effected from the equivalent categories, which all are interchangeable carrying identical scale of pay. Once the qualified B.T.Assistants are transferred as Deputy Inspectors of Schools, such transfers cannot be a permanent one and such transfers are issued based on their qualifications. However, several other B.T.Assistants are possessing the requisite qualification for transfer to the post of Deputy Inspector of Schools and those B.T.Assistants are also to be provided with an opportunity to work as Deputy Inspectors of Schools. Beyond this, when these two posts are interchangeable and the method of appointment is by transfer from B.T.Assistant, then re-transfer from Deputy Inspector of Schools to B.T.Assistant is implied as the said posts are interchangeable and carrying identical scale of pay.

24. To substantiate the above position, this Court would like to show certain examples prevailing in various Departments. There are number of administrative posts in Government Departments. All such administrative posts are filled up by virtue of certain qualifications and those employees are liable to be re-transferred to the interchangeable posts on administrative grounds or to provide an opportunity to all other eligible candidates to get an opportunity to work in administrative posts. Even in the High



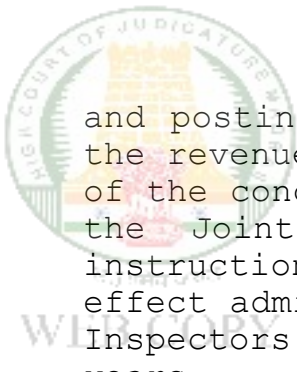
Court, the Registrars are exercising administrative powers and they are in the cadre of District Judges. When they serve as Registrars in the High Court, they exercise administrative powers and they are liable to be re-transferred as District Judges for performing judicial works. Once the posts are interchangeable and by virtue of certain merits or additional qualifications, such persons are posted to perform administrative works on the identical scale of pay, then they cannot claim any right over the post. When the posts are identical and the mode of appointment is by "transfer", it is implied that such employees posted to exercise administrative duties are liable to be re-transferred to the teaching post also.

25. According to the learned Additional Advocate General , the post of Deputy Inspector of Schools carries certain administrative powers in the District and only for the purpose of enjoying such power and post, the petitioners have filed the present writ petition on certain unacceptable grounds. The petitioners are well aware of the fact that the post of Deputy Inspector of Schools is equivalent to the post of B.T.Assistant and they were posted as Deputy Inspectors of Schools by way of transfer and they are not at all aggrieved persons as there is no change in the conditions of service.

26. This Court is of the considered opinion that post or place can never be claimed as a matter of choice by the Government employees. Status cannot be a ground to claim a particular post or category. Service conditions and the service rights are to be established for the purpose of granting such reliefs. When the petitioners are appointed as B.T.Assistants and by virtue of passing departmental tests they were transferred and posted as Deputy Inspectors of Schools, several other B.T.Assistants are also qualified for holding the post of Deputy Inspector of Schools and in the event of allowing the petitioners to continue in the post of Deputy Inspector of Schools for an indefinite period, then opportunity of the other qualified B.T.Assistants to serve as Deputy Inspectors of Schools is denied and equal opportunity being a constitutional mandate and transfer being incidental to service and transfer of the petitioners would not amount to infringement of their service rights, there is no reason for this Court to interfere with the administrative transfer orders issued transferring the petitioners from Deputy Inspectors of Schools to B.T.Assistants.

27. Rule-8 of the Special Rules contemplates "Tests" to become eligible for the post of Deputy Inspector of Schools. As per the said Rule, all the Graduate Teachers (B.T.Assistants) possessing qualification under Rule 8 of the Special Rules, are eligible to be transferred to the post of Deputy Inspectors of Schools.

28. Rule-11 of the Special Rules contemplates "Transfers and Postings". Sub-rule (a)(i) to Rule enumerates that transfers

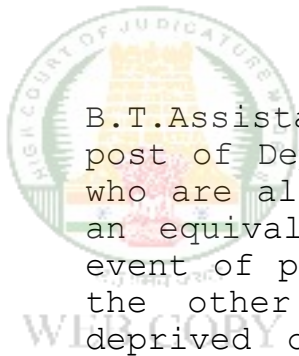


and postings of the personnel in all classes of the service within the revenue districts shall be made by the Chief Educational Officer of the concerned revenue districts. Therefore, in the present case, the Joint Director of School Education issued administrative instructions to the Chief Educational Officers across the State to effect administrative transfers considering the fact that the Deputy Inspectors of Schools are working in the same post for more than ten years.

29. The learned Additional Advocate General clarified that all the petitioners in the present writ petitions are working more than ten years and it is not desirable to continue all these persons in the same post in the interest of public administration and further, other qualified employees waiting for transfer to the post of Deputy Inspector of Schools are also to be considered for transfer for the purpose of efficient and effective public administration.

30. It is brought to the notice of this Court that the Education Department has taken effective steps for revamping the entire School Education Department by transferring the teachers / employees working for long years in the same post or station. While initiating steps for revamping of the administration, the employees, whose service rights are not violated, cannot have any locus to question the administrative decision taken by the Authority competent.

31. What is to be considered by this Court is whether any of the service conditions of the petitioners is infringed or they could able to establish any right to hold the post of Deputy Inspector of Schools. As far as the service conditions are concerned, the post of Deputy Inspector of Schools and B.T.Assistant are equivalent categories carrying identical scale of pay. The mode of appointment to the post of Deputy Inspector of Schools unambiguously stipulates that the eligible B.T.Assistants, who possess the requisite qualification, are to be transferred as Deputy Inspectors of Schools. Once the appointment is made by way of transfer, then those transfers are implied that such employees are liable to be re-transferred as B.T.Assistants, which is also an equivalent post carrying identical scale of pay. Therefore, the interpretation offered by the learned Senior Counsel for the petitioners is unacceptable as the Special Rules in clear terms stipulate that the post of Deputy Inspector of Schools is to be filled up by "transfer" from the qualified Graduate Teachers. Therefore, the new Rule cannot be interpreted as if the post of Deputy Inspector of Schools is a distinct category and once a B.T.Assistant is posted as Deputy Inspector of Schools, he cannot be re-transferred to the post of B.T.Assistant. Therefore, the post of Deputy Inspector of Schools is not treated as a separate category and it is treated as equivalent category to that of the



B.T.Assistant / Graduate Teachers (Subjects) and the transfer to the post of Deputy Inspector of Schools is implied that such employees, who are all transferred to the post of B.T.Assistant, which is also an equivalent category carrying identical scale of pay. In the event of permanent absorption of these Deputy Inspector of Schools, the other eligible B.T.Assistants / Graduate Teachers will be deprived of their opportunity to serve as Deputy Inspectors of Schools. Such a situation would lead to discrimination amongst the equals, who are working in the equivalent category. The Rules do not create any such discrimination in respect of transfer of B.T.Assistants as Deputy Inspectors of Schools.

32. The whole reading of the Special Rules reveals that the recruitment to the post of Graduate Teacher is made by direct recruitment, promotion from any other post or by transfer from the post of Superintendent in School Education Department in the Tamil Nadu Ministerial Service etc. Once the Graduate Teachers are appointed under Category-2 of the Special Rules and they have passed the tests contemplated under Rule 8 of the Special Rules, then they became eligible for transfer to the post of Deputy Inspector of Schools. Tests are contemplated in view of the fact that the post of Deputy Inspector of Schools carries certain administrative duties and responsibilities and therefore, the eligibility criterias are fixed. However, the fact remains that the posts of Deputy Inspector of Schools and Graduate Teacher are equivalent categories and carrying identical scale of pay. That exactly is the reason why there is no separate provision for appointment contemplated to fill up the post of Deputy Inspector of Schools. Appointment is to be made by transfer from the equivalent category and once such transfer is made, then those employees are liable to be re-transferred and other Graduate Teachers waiting for the post of Deputy Inspector of Schools must be provided with an opportunity to work as Deputy Inspector of Schools in order to make public administration more effective and efficient. In the event of allowing such employees in the same post for an indefinite period, no doubt, it will create inconvenience to the administration and further, the other eligible candidates would not get opportunity to serve as Deputy Inspectors of Schools.

33. Pertinently, the Special Rules contemplate that appointment to the post of Deputy Inspector of Schools is to be made by way of transfer from Category-2 of Class-I or Classes-II, III and IV in the service. Category-2 of Class-I indicates Graduate Teachers (Subjects) and other Classes are also stated. The language adopted in the Rule is "by transfer", but not "transfer from any service". "Transfer" and "transfer from any other service" are distinguishable. If a person is appointed from any other service as Deputy Inspector of Schools, then alone it may be contended that re-transfer is to be made only, if Rules permit. But, if the Rule contemplates "by transfer", then it is to be made only by way of



transfer and the word "transfer" indicates that the posts of Deputy Inspector of Schools and Graduate Teacher (B.T.Assistant) are interchangeable as it carries identical scale of pay. By virtue of certain administrative duties and responsibilities, certain tests are prescribed for the post of Deputy Inspector of Schools and the persons, who have passed the tests are appointed under the Rules. However, both the categories, namely, Deputy Inspector of Schools and Graduate Teacher are falling under the same Special Rules and therefore, the word "transfer" adopted in the Rules indicates that transfer can be made from each post and the posts are interchangeable. Thus, routine transfers between the posts of Deputy Inspector of Schools and Graduate Teacher are contemplated under the Special Rules and thus, there is no infirmity in the circular issued by the Joint Director of School Education as the Chief Educational Officer is the competent Authority under Rule-11 of the Special Rules.

34. Therefore, this Court is of the concrete opinion that the service conditions of the petitioners are not violated nor infringed. When two posts carry equivalent scale of pay and treated as equal categories under the Rules, admittedly, the petitioners have no right to claim a particular post as a matter of right or choice. Status cannot be claimed in the Government service. When the service conditions are not infringed from and out of the administrative transfers effected, the Government employees have no right to claim the post as their choice. Thus, the petitioners have not established any right for the purpose of challenging the impugned orders nor they have established violation of the service conditions contemplated under the Rules. Therefore, the circular issued by the Joint Director of School Education and the consequential transfer orders issued by the Chief Educational Officers do not affect the service conditions of the petitioners and they have not established any right for the purpose of entertaining the writ petitions and for grant of the relief sought for.

35. Accordingly, all the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

krk

To:

- 1.The Principal Secretary to Government,
School Education Department,
State of Tamil Nadu, Fort, St.George, Secretariat,

<https://hcservices.courts.gov.in/KCServices> 09.



- 2.The Commissioner of School Education,
O/o.Commissioner of School Education,
Nungambakkam, Chennai.
- 3.The Joint Director of School Education (Personnel),
O/o.the Joint Director of School Education, Chennai-600 006.
- 4.The Chief Educational Officer, Dindigul District, Dindigul.
- 5.The Chief Educational Officer, Theni District, Theni.
- 6.The Chief Educational Officer, Madurai District, Madurai.
- 7.The Chief Educational Officer,
Kanyakumari District, Kanyakumari.
- 8.The Chief Educational Officer,
Ramanathapuram District,
Ramanathapuram.
- 9.The Chief Educational Officer,
Tenkasi District, Tenkasi.
- 10.The Chief Educational Officer,
Karur District, Karur.
- 11.The District Educational Officer,
O/o.District Educational Office,
Karur Taluk, Karur District.

+1 CC to M/s.F.DEEPAK, Advocate (SR-10239[F] dated 07/03/2022)

+1 CC to M/s.SPL GP (SR-10287[F] dated 07/03/2022)

+5 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-10394 & 10398[F] dated 07/03/2022)

COMMON ORDER

IN

W.P. (MD) Nos.429, 644, 787 & 807 of 2022

and

**W.M.P. (MD) Nos.327, 328, 517, 518, 609,
612, 652, 653 & 667 of 2022**

04.03.2022

KG (CO)
TR(10.03.2022) 17P 19C