



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.454 of 2022

D.Mercy

... Petitioner

versus

1.The State of Tamil Nadu

Represented by its Principal Secretary to Government,
School Education Department,
Fort St.George,
Chennai-600 009.

2.The Commissioner,

School Education Department,
DPI Campus,
Nungambakkam, Chennai-6.

3.The Joint Director of School Education Department (Personnel),
College Road, Nungambakkam,
Chennai.

4.The Joint Director of School Department,
(Higher Secondary)
College Road,
Nungambakkam, Chennai.

5.The Chief Educational Officer,
O/o the Chief Educational Office,
Chengalpattu District.

6.The Chief Educational Officer,
O/o.the Chief Educational Office,
Dindigul District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the respondents to allow the petitioner to take part in the transfer counseling scheduled to be held on 07.02.2022 taking into consideration the petitioner's seniority and by giving preference in view of the fact that the petitioner was unjustly deprived of her right to participate in the transfer counseling of the year 2019 within the period that may be stipulated by this Court.

For Petitioner : Mr.Mohammed Suhail
for M/s.Ajmal Associates

For Respondents : Mr.V.Nirmal Kumar
Additional Government Pleader

**ORDER**

This Writ Petition is filed to direct the respondents to give preference to the petitioner in the transfer counselling scheduled to be held on 07.02.2022.

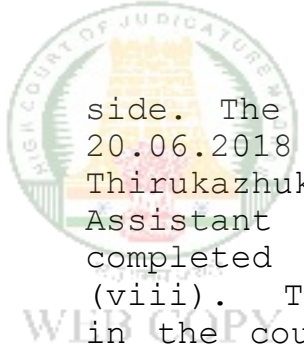
2. Learned counsel appearing for the petitioner submits that the petitioner is working as PG Assistant at Government Girls Higher Secondary School, Thirukazhukundram, Chengelpet District from 20.06.2018 onwards. The petitioner's husband is working as Assistant Programmer at Municipal Office, Periyakulam, Theni District which is around 403 Kms far away from Chengalpet District. The learned counsel also relied on G.O.(Ms).No.176, School Education [SE5(1)] Department dated 17.12.2021 and stated that the petitioner is eligible for a preference as per clause 2(d)(viii) and the same is extracted hereunder:

“(2)(d)(viii) If both the husband and wife are employed and the distance between the places of their employment is more than or outside a 30 km radius, their case will be considered under spouse quota and they will be treated as living in two different places. Transfer under this category will be considered only after three years of earlier transfer. (The spouse transfer category is applicable only in respect of spouse employed in schools/offices under Union/State government/public sector undertakings and Government Aided schools. A service certificate is to be produced from the competent authority to avail this benefit.”

3. Though the petitioner is entitled for preference as per G.O. (Ms).No.176, the petitioner has not been considered for the counselling that was held in the year 2019 and therefore, she approached this Court with an abundant caution that the petitioner be permitted to participate in the counselling.

4. Mr. V. Nirmal Kumar, learned Additional Government Pleader, appearing for the respondents by referring Clause 2(d)(viii) of the relevant Government Order would submit that as far as the priority of the spouse category is concerned, it would be considered only after three years of earlier transfer. Since the petitioner has not completed three years, the petitioner was not considered in the previous counselling which was held in the year 2019. If the petitioner has already completed three years of service in the earlier service, then her case would be considered as per Clause 2 (d)(viii) of the said Government Order dated 17.12.2021.

5. This Court paid its anxious consideration to the rival submissions made and is inclined to dispose of this Writ Petition at the admission stage itself with the consent of the counsel on either



side. The petitioner is working as PG Assistant with effect from 20.06.2018 at Government Girls Higher Secondary School, Thirukazhukundram, Chengelpet District and her husband is working as Assistant Programmer in Theni District. The petitioner has also completed three years period at Chengalpattu as per clause 2(d) (viii). The respondents shall allow the petitioner to participate in the counselling that is to be held on 09.02.2022, as per the Government Order and consider her transfer in any of the places available in Theni District.

6. Accordingly the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The Principal Secretary to Government,
State of Tamil Nadu,
School Education Department,
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Chennai-600 009.
- 2.The Commissioner,
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Nungambakkam,
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5.The Chief Educational Officer,
O/o the Chief Educational Office,
Chengalpattu District.

6.The Chief Educational Officer,
O/o.the Chief Educational Office,
Dindigul District.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-1593[F] dated
12/01/2022)

+1 CC to M/s.SPL.GP (SR-1710[F] dated 19/01/2022)

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MGJ(08.02.2022) 4P 9C