



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:25.03.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P. (MD)No.459 of 2022

and WMP Nos.359 and 360 of 2022

WEB COPY

A.C.Senthamil Thenmozhi

... Petitioner

Vs.

1.The Commissioner

Adi Dravidar Welfare Department
Ezhilagam, Chepauk
Chennai

2.The District Adi Dravidar and

Tribunal Welfare Officer,
Karur District
Karur

3.The District Adi Dravidar and

Tribunal Welfare Officer,
Tirupur District,
Tirupur.

4.The Headmaster

the Government Adi Dravidar Welfare
Higher Secondary School
Chinnamanaickenpatti
Karur District

5.Samuel

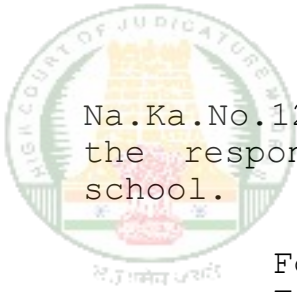
The Superintendent
District Adi Dravidar Welfare Department
Karur

6.N.Jessi Bharathi

B.T.Assistant (Science)
The Government Adi Dravidar Welfare /
Higher Secondary School
Chinnamnaickenpatti
Karur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings of the 1st respondent dated 20.12.2021 in Na.Ka.No.11/6651/2019-7 and the consequential proceedings of the 2nd and 4th respondents respectively dated 21.12.2021 and 24.12.2021 in Na.Ka.No.7206/2020 (¶.2) and



Na.Ka.No.12/2021 respectively and quash them and consequently direct the respondents to retain the petitioner in the 4th respondent school.

For Petitioner : Ms.R.Vasantha Kiruba
For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader
for R1 to R4
Mr.M.P.Senthil for R6

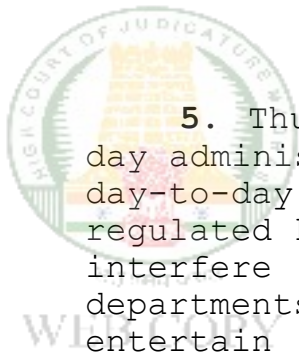
ORDER

The order of transfer dated 20.12.2021 and the consequential proceedings of the respondents 2 and 4 are under challenge in the present writ petition.

2. The petitioner was working as B.T.Assistant (Science) in the 4th respondent school. She was treated as surplus by the competent authorities and based on the final list of surplus teachers dated 25.11.2021, the petitioner was transferred from the 4th respondent school to Government Adi Dravidar welfare Higher Secondary School, Tiruppur District.

3. The learned Additional Government Pleader relying on the counter affidavit filed by the respondent states that the official respondents have duly considered the petitioner's objections and final list of surplus teachers in Karur District was published on 25.11.2021. Therefore, the impugned order was passed after due consideration and after affording a reasonable opportunity and based on the final list of surplus teachers and following the guidelines issued in this regard by the Government. The relinquishment of right of promotion exercised by the petitioner is no way connected with the service transfer. Transfer and postings are the administrative prerogative. A surplus teacher can be posted in any place. Mere transfer would not violate any of the service conditions. The rights of the petitioner is not infringed and therefore, the service transfer issued on administrative reasons would not confer any right as provided a cause for moving a writ petition.

4. Transfers are issued on administrative grounds for efficient and effective public administration. Efficient public administration is the constitutional mandate and under those circumstances, the act intended to provide an absolute power to the Government to transfer an employee from one revenue district to another revenue district on administrative grounds notwithstanding anything contained in the act or any special rules or adhoc rules.



5. Thus, this Court is of the considered opinion that day-to-day administration of the Government vests with the executives. The day-to-day administration are to be effectively monitored and regulated by the competent authorities. Courts are not expected to interfere with the day-to-day administration of the Government departments. No doubt, on exceptional circumstances, the Court can entertain writ petitions, where an order of transfer is under challenge on certain limited grounds. If any order of transfer has been passed without jurisdiction or allegations of mala fides are raised or in certain exceptional circumstances, where materials are available to establish that the transfer is punitive, then the Courts can interfere, in order to mitigate the exceptional circumstances advanced. However, the scope of interference is undoubtedly limited and in the event of frequent interference by the Constitutional Courts in the matter of administrative transfer, the executives may not be in a position to run the administration in a smooth manner.

6. The next question arises, whether transfer gives a right to a government employee. The answer would be that transfer would not provide any right to a Government employee. Transfer is an incidental to service, more so a condition of service. When an offer of appointment is issued by the competent authorities, the acceptance of appointment is implied that the transfers are agreed and the employment is a contract between the employer and employee and the transfer being incidental, the scope for challenge is in narrow campus. Thus, when there is no right in the matter of transfer and transfers are not affecting the service conditions of an employee, then the entertainability of the writ petition is to be considered.

7. As stated above, entertainability rests on limited grounds viz., (i) without jurisdiction; (ii) mala fide; and (iii) punitive, if established with sufficient materials to the satisfaction of the Courts.

8. The power of judicial review of the High Court under Article 226 of the Constitution of India is to ensure the processes through which is decision is taken by the competent authority in consonance with the provisions of the statutes and rules, but not the decision itself.

9. There are many complaints against the public officials in common parlance. General public are giving complaints and some complaints are motivated and some complaints require enquiry. However, if the higher officials receive frequent complaints against an officer in a particular manner or regarding certain instances, then it is the subjective satisfaction of the competent authority concerned to take a decision and the Courts cannot play any role in such decision of the administrative authorities. In the process of



administration, an executive takes a decision considering the nature of complaints and the seriousness involved and further enquiry to be conducted, if necessary. Such a process is an administrative process, which is the day-to-day administration and in the event of interference by the High Courts, it would be undoubtedly, a tedious affair for the executives to run the administration in a peaceful manner and to enforce discipline amongst the employees, which is of paramount importance.

10. This Court cannot brush aside the general allegations in the public domain against the public servants. There are large scale corruption in Government Departments. People are not only lamenting, even for their rightful claims, bribes are demanded. Under these circumstances, administrative transfers are warranted and therefore, the Courts are expected to exercise restraint in exercise of the power of judicial review under Article 226 of the Constitution of India and the discipline to be maintained in public service is also to be considered by the Courts, while interfering with such administrative transfers.

11. In the present case, the petitioner was treated as surplus and a final list was issued and the petitioner has also acknowledged the list and thereafter, as per the final list of surplus teachers, transfer order has been issued. This being the factum, the petitioner has not established any ground for the purpose of interfering with the order of transfer. Accordingly, the writ petition stands dismissed. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

RR

To

1.The Commissioner
Adi Dravidar Welfare Department
Ezhilagam, Chepauk
Chennai

2.The District Adi Dravidar and Tribunal Welfare Officer,
Karur District
Karur

<https://hcservices.ecourts.gov.in/hcservices/>



3.The District Adi Dravidar and Tribunal Welfare Officer,
Tirupur District,
Tirupur.

4.The Headmaster
the Government Adi Dravidar Welfare
Higher Secondary School
Chinnamanaickenpatti
Karur District.

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-14703[F] dated 25/03/2022)

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-14757[F] dated 28/03/2022)

+1 CC to M/s.SPL GP (SR-14918[F] dated 28/03/2022)

W.P. (MD) No. 459 of 2022
25.03.2022

KG(CO)
GC(04.04.2022) 5P 8C