



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2022

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.2950 of 2022

and

W.M.P (MD) No.2583 of 2022

P.Ganeswari

... Petitioner

-vs-

1.The Director of Elementary Education,
Chennai-6.

2.The Chief Educational Officer,
Theni District.

3.The District Educational Officer,
Theni, Theni District.

4.The Block Education Officer,
Maiyladumparai Union,
Theni District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to prepare the list of surplus secondary grade teachers by district wise as per the norms published by the first respondent in para 31 (1) in his proceedings in Na.Ka.No.756/D1/2021, dated 06.01.2022 so as to enable them conduct the transfer counseling as per the norms fixed by the first respondent proceedings in na.Ka.No.756/D1/2021, dated 06.01.2022 in para 31(2)(3) and pass such further or other orders.

For Petitioner : Mr.V.Panneer Selvam

For Respondents : Mr.V.Om.Prakash
Government Advocate

O R D E R

The writ of mandamus has been filed to direct the respondents to prepare the list of surplus Secondary Grade Teachers by district-wise as per the norms published by the first respondent in proceedings, dated 06.01.2022, so as to enable them to conduct the transfer counselling as per the norms.

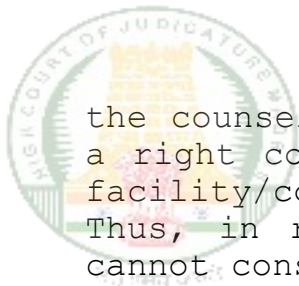


2. The writ petitioner is working as Secondary Grade Teacher. The relief sought for is general in nature. A teacher working in a School, no doubt, in the event of any violation of service conditions or her rights are infringed, may approach the Court of law. Contrarily, for implementation of Administrative policies or regarding the implementation of guidelines or counselling or otherwise, a teacher cannot approach the High Court by filing the writ petition. Such administrative affairs are to be looked into by the competent authorities and not at the instance of the petitioner, who is working as a Secondary Grade Teacher.

3. The petitioner has to perform his duties diligently as Secondary Grade Teacher by imparting better education to the students. Contrarily, for counselling procedures and preparation of District-wise list, the petitioner cannot approach the High Court and therefore, the petitioner has filed the writ petition beyond the scope of her service rights ensured under the rules in force.

4. Even counselling is a facility provided, counselling is a concession extended by the Government by way of guidelines. Concession can never be construed as a right. Under Section 48 of the Tamil Nadu Government Servants (Conditions of Service Act) 2016, provides posting and transfers. Sub Section (1) enumerates that a member of a service or class of service may be required to serve in any post borne on the cadre of such service or class for which he is qualified. Therefore, the statute contemplates that the Government servant is bound to work wherever he/she is posted. If at all an order of transfer has been issued, the same can be challenged in a writ proceedings on the limited grounds of jurisdiction or malafides. Even in case of raising an allegation of malafides, the authorities against whom such allegation is raised, must be, impleaded as party respondent in his personal capacity.

5. Thus, transfer is a rule. All other guidelines, schemes are concession. Those concessions or guidelines would not confer any right on the Government servant to seek a particular posts or place. While availing the concession, they are at liberty to claim as per the guidelines. Even, the violations in respect of those guidelines would not result in infringement of rights in view of the fact that those guidelines do not have any statutory enforcement. The transfer is a incidental to service, more so, a condition of service. Transfer per se would not provide a cause of action for challenge. Transfer being a incidental. Counselling concessions are made available for smooth running of the administration. Therefore, such counselling facility provided would not infringe the right of an employee. Even if an employee is unable to get a particular post or place during counselling, the same would not confer any right on the employee to challenge such transfer orders. Transfer orders are passed on administrative grounds. In normal



the counselling to choose a place, However, such an option is not a right conferred and it is a facility provided and based on such facility/concession, a writ proceedings need not be entertained. Thus, in respect of counselling procedures, a Government employee cannot constitute a cause for filing a writ petition.

6. This being the principles to be followed, this Court is of the considered opinion that the writ petition is filed beyond the scope of the service rights conferred on the writ petitioner and the relief sought for is general in nature and consequently, the writ petition stands dismissed. No order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

1.The Director of Elementary Education,
Chennai-6.

2.The Chief Educational Officer,
Theni District.

3.The District Educational Officer,
Theni, Theni District.

4.The Block Education Officer,
Maiyladumparai Union,
Theni District.

+1 CC to V.PANNEER SELVAM, Advocate (SR-6277[F] dated 15/02/2022)

+1 CC to M/s.SPL GP (SR-6458[F] dated 16/02/2022)

ORDER MADE IN
W.P. (MD) No.2950 of 2022
15.02.2022

PKP/02.03.2022/3P/7C