



WEB COPY

W.P.(MD)No.3892 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **15.06.2022**

CORAM:

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

W.P.(MD)No.3892 of 2020

and

W.M.P.(MD)Nos.3290 to 3292 of 2020

N.Vijayalakshmi

... Petitioner

/vs./

1.The State of Tamil Nadu,
Represented by its Principal Secretary,
School Education Department,
Fort St.George, Chennai-600 009.

2.The Director of School Education,
Nungambakkam, Chennai-6.

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

4.The Chief Educational Officer,
O/o.The Chief Educational Office,
Karur District.

5.G.Mohan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 3rd respondent in his proceedings Na.Ka.No.050096/W2/S1/2019, dated 15.11.2019 and quash the same as illegal and consequentially, to direct the 3rd respondent to accommodate the petitioner in 5th respondent school are otherwise any one of the available vacancy in and around the petitioner's native place within the period that may be stipulated by this Court.

For Petitioner

: Mr.Mohammed Suhail

For M/s.Ajmal Associates

For R1 to R4

: Mr.S.Shaji Bino,

Special Government Pleader.

For R5

: No Appearance



ORDER

This Writ Petition has been filed challenging the order of the 2nd respondent dated 15.11.2019.

2. The petitioner herein is aggrieved against the transfer order of the fifth respondent herein, who was transferred to the Girls Higher Secondary School at Namakkal. The transfer effected to the fifth respondent was pursuant to the counselling that was held in the year 2019. It is stated that the fifth respondent had also joined in the transferred place and has been working there ever since.

3. In the counter affidavit filed by the official respondents herein, it is stated that the petitioner herein had sought for transfer to Namakkal District under the spouse category and since her husband was employed at Karur District, the same was impermissible under the regulations governing transfer of the Government School Teachers.

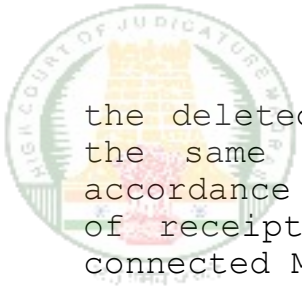
4. Even otherwise since the fifth respondent herein has been working at Namakkal District for more than four years, it would not be appropriate to interfere with his service, owing to his long period of service in the transferred place.

5. The learned counsel appearing for the petitioner submitted that she had served in the present post for more than five years and since the entitlement to claim transfer on the basis of service over five years has now been deleted, she is unable to seek for transfer.

6. This Court is of the view that when the last transfer counselling was held, the petitioner was entitled to seek for transfer on the ground that she had been working in the place for more than five years. Moreover, in the transfer application, the petitioner had not only sought for transfer under the spouse category, but had also given another option of the category of service over five years.

7. Though the learned Special Government Pleader for the official respondents would submit that the option available to a Teacher, seeking for transfer, would entitle her to apply only under one category and the petitioner herein had opted for two categories, I am of the view that the petitioner can be given opportunity to approach the respondents, seeking for transfer under the category that she has completed five years, as a special case.

8. In the light of the above observations, this Writ Petition stands closed with liberty to the petitioner to make an application to the third respondent, seeking for transfer and on receipt of the same, the third respondent shall consider it, without reference to



the deleted entitlements of the category of "Five years service in the same place" and pass appropriate orders on merits and in accordance with law, within a period of two (2) weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar (CS II)

// True Copy //

/07/2022

Sub Assistant Registrar (CS)

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To

1.The Principal Secretary,
State of Tamil Nadu,
School Education Department,
Fort St.George, Chennai-600 009.

2.The Director of School Education,
Nungambakkam, Chennai-6.

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

4.The Chief Educational Officer,
O/o.The Chief Educational Office,
Karur District.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-26036[F] dated 16/06/2022)

+1 CC to M/s.SPL.GP (SR-26548[F] dated 17/06/2022)

Order made in
W.P.(MD)No.3892 of 2020

Dated:
15.06.2022

= SS/01/07/2022/ 3P 7C