WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 25.03.2022
CORAM:
THE HONOURABLE MR.JUSTICE PARESH UPADHYAY
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.A(MD)Nos. 254 and 255 of 2022
and C.M.P.(MD) Nos. 2399 and 2400 of 2022

W.A(MD)No. 254 of 2022:

1. O.Selvam
2. S.Sivakumar
3. M.Indira
4. M.Ananth .. Appellants Nos.1 to 4/
Writ Petitioners Nos.1,2,5 & 12

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 Nos.1 to 7/Respondents 1 to 7
(formal respondent notice may be dispence with for the respondents 4 & 6 no relief is sought for against them)

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

WEB COPY

8.M.Palpandi
9.K.Venkatesan ... Respondent 8 & 9/Writ Petitioners 3 & 4
10.R.Venkatraman
11.A.Iyappan
12.Y.L.Rajamohan
13.S.George Benet
14.S.Jeyaram
15.R.Sureshkumar .. Respondents Nos.10 to 15/
Writ Petitioner no.6 to 11

(Dispence with for the respondent Nos. 8 to 15 no relief is sought for against them).

PRAYER in WA(MD).254 of 2022: Writ Appeal filed under Clause 15 of the Letters Patent against the common order dated 04.03.2022 recorded on W.P.(MD) No. 429 of 2022 and cognate petitions.

Prayer in WP(MD). 429/ 2022 :
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court S-3.To issue a Writ of Certiorari calling for the records relating to the impugned order passed by the 2nd respondent in is proceedings Na/Ka/No.69836/C2/E1/2021 dated 06.01.2022 and quash the same as illegal and pass such further or other orders as this Honble court may deem fit and proper in the circumstances of the case and thus render justice.

For Appellant : Mr.M.Ajmalkhan
Senior Counsel for
M/s.Ajmal Associates

For Respondents : Mr.Veera Kathiravan,
Additional Advocate General
Assisted by
Mr.S.P.Maharajan
Special Government Pleader for R1 to 7

W.A(MD)No. 255 of 2022:

K.Shanthi .. Appellant/Writ Petitioners

Vs

1.The Commissioner of School Education,
O/o. Commissioner of School Education,
Nungambakkam,
Chennai.

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

WEB COPY

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/Respondents

PRAYER in WA(MD).255 of 2022: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 04.03.2022 recorded on W.P.(MD) No. 807 of 2022.

Prayer in WP(MD). 807 of 2022 :
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to issue a Writ of Certiorari or any other appropriate writ or order or direction in the nature of writ 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 and pass such further or other orders as this Honourable Court may deem fit and proper in the circumstances of the case and thus render justice.

For Appellant : Mr.M.Ajmalkhan
Senior Counsel for
M/s.Ajmal Associates

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

COMMON JUDGMENT

[Delivered by PARESH UPADHYAY, J.]

Challenge in these appeals is made to the common order dated 04.03.2022 recorded on group of petitions being W.P.(MD) Nos. 429, 644, 787 & 807 of 2022. These two appeals are arising from W.P.(MD) No. 429 of 2022 and W.P.(MD) No. 807 of 2022. These appeals are by the writ petitioners.

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

WEB COPY

2. Mr.Ajmal Khan, learned Senior Advocate for the writ petitioners / appellants has submitted that, the general directions issued by the respondent State Authorities dated 06 January 2022 and the consequential transfer / posting orders issued on 07 January 2022, which were impugned in the writ petitions were not only illegal and arbitrary but the official respondents did not have any authority to pass that order in view of the statutory rules holding the field. It is submitted that, the petitioners were initially appointed as Graduate Teachers / B.T. Assistants and on satisfying the conditions of passing examinations etc., as contemplated under the Rules, they were appointed on the post of Deputy Inspector of Schools by way of transfer which is recognized as the sole mode of appointment on that post. It is submitted that though the appointment of the petitioners on the post of Deputy Inspector of Schools was by way of transfer, it would be wrong to consider the said order as 'transfer order' in view of the rule that the said order was not 'administrative transfer' but was a recognized and sole mode of appointment, as provided under the Rule. It is submitted that, transferring the petitioners from the post of Deputy Inspector of Schools to that of Graduate Teacher is not contemplated under the Rules and therefore the general orders to transfer all Deputy Inspector of Schools who have completed certain years of service in that post as Graduate Teachers, is inconsistent with the notification dated 30 January 2020. It is submitted that, the said order being unsustainable, was initially rightly stayed by this Court which ought to have been considered by the writ court at the time of final hearing and dismissal of the writ petitions, more particularly for the reasons recorded in para: 23 and 31 are erroneous. It is submitted that, the said error is an error apparent on the face of record, which needs to be corrected by this Court under Clause 15 of the Letters Patent Act. While referring to the Government notification dated 30 January 2020, reference is also made to the Subordinate Service Rules as contained in manual of 2016 by specific reference to Section 48 to contend that, in the earlier set of Rules, the post of Deputy Inspector of Schools and Graduate Assistants was interchangeable, however the same is not the position, in view of the subsequent notification dated 30 January 2020. It is submitted that these appeals be allowed by setting aside the order of learned Single Judge and by setting aside the orders impugned in the writ petitions.

3.1 On the other hand, Mr.Veera Kathiravan, learned Additional Advocate General has opposed these appeals. It is submitted that, the orders impugned in the writ petitions were simple transfer on administrative ground. It is submitted that the stand of the State, as contained in the counters which were on record is rightly taken into consideration while deciding the writ petitions and no interference be made by this Court. Attention of the Court is invited to the relevant paragraphs of the impugned order wherein the stand of the State is reflected and the same is reiterated before us as well. It read as under:-

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

WEB COPY

"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

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

WEB COPY

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

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

WEB COPY

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

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

WEB COPY

> 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 vide 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 alo 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.""

3.2 Learned Additional Advocate General has specifically referred to Rule 11 of the Notification dated 30 January 2020 to contend that, the impugned action was pure administrative transfer and the State Authorities were well within the powers and discretion to order transfer. It is further submitted that, those, who were ordered to be transferred had put in substantial years of service and therefore on that count also the transfer can not be said to be arbitrary. The substance of the argument on behalf of the State is that the impugned orders were transfer on administrative ground and well within the domain of the State and it was done without any pick and chose manner, therefore it was neither illegal nor arbitrary and no service condition is affected in any manner. It is further submitted that, the seniority of the petitioner as B.T Assistants is also protected and therefore not only no prejudice is caused in the pay scale, even in the seniority also no prejudice is caused to the petitioners and therefore dismissal of writ petitions can not be said to be erroneous in any manner and therefore no interference be made by this Court. It is further submitted that more than 1000 persons, who are working as B.T. Assistants are eligible to work as Deputy Inspector of Schools and therefore those who are sought to be posted vice the appellants in no way can be said to be ineligible to hold that post. It is submitted that these appeals be dismissed.

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

WEB COPY

4. Having heard learned Senior Advocates for the respective parties and having considered the material on record this Court finds as under:-

4.1 At the outset it is noted that, the following contentions of learned Additional Advocate General are accepted.

4.2 This Court under Article 226 of the Constitution of India would be very slow to interfere in any transfer matter.

4.3 The pay of the appellants is not changed to their detriment by the impugned transfer.

4.4 So far justification of non-arbitrariness is concerned, we accept the argument that the impugned action is not in pick and chose manner and no appellant can be said to have been disturbed in short span of the posting.

4.5 The case of the State is also accepted to the effect that the persons who are sought to be posted vice the appellants can not be said to be ineligible in any manner.

5.1 The point at issue before this Court is only, whether the impugned transfer of the appellants from the post of Deputy Inspector of Schools to Graduate Teacher is simple transfer on administrative ground or is beyond it, keeping in view the statutory Rules, holding the field. In this regard, two sets of Rules which are referred to by both the learned Senior Advocates need to be kept in view.

5.2 The first set of Rule, which is earlier set of Rule, finds place in Tamil Nadu Services Manual Volume III Subordinate Services with specific reference to Section 48 - The Tamil Nadu School Education Subordinate Service.

5.3.1 In the above set of Rules, the post of Deputy Inspector of Schools and School Assistants are referred as under:-

"Class and Category

(1) Deputy Inspector of Schools and School Assistants

(2) Junior Deputy Inspector of Schools"

5.3.2 The above would show that Deputy Inspector of Schools and School Assistants – both are treated as the same class and category by the said set of Rules.

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

WEB COPY

5.4 The second set of Rules is the notification issued by the Government of Tamil Nadu in Extraordinary Government Gazette, School Education Department dated 30 January 2020, with the head 'Special Rules for the Tamil Nadu Elementary Education Subordinate Service'. Rule 2 thereof, reads as under:-

"Appointment. - (a) Appointment to the several classes and categories of the service shall be made as follows:-

	Class and Category	Method of Appointment
Class I	(1)	(2)
Category 1	Deputy Inspector of School	By Transfer from category 2 of class 1 or classed II,III,IV in the service
Category 2	Graduate Teacher (subjects)	(i) by Direct recruitment; or (ii) by Promotion from any other post; or (iii) (a) Recruitment by transfer from the post of Superintendent in School Education Department in the Tamil Nadu Ministerial Service; (b) if no candidate is available for appointment by the method (ad) above, recruitment by transfer from the post of Assistants in School Education Department in the Tamil Nadu Ministerial Service; (c)If no candidate is available for appointment by the methods (a) and (b) above, recruitment by transfer from the post of Junior Assistant in School Education Department in the Tamil Nadu Ministerial Service; (d)If no candidate is available for appointment by the methods (i),(ii) and (iii) above, recruitment by transfer from any other service;

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

WEB COPY

5.5 Rule 11 of the said set of Rules which is heavily relied by learned Additional Advocate General, reads as under:-

> "11. Transfers and Postings.- (a) (i) 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.
> (ii) Transfers and postings of the peronnel in all classes of the service within the educational districts shall be made by the District Educational Officer of the concerned educational districts.
> (b) Inter-Revenue District Transfer and postings of all Officers in the service shall be made by the Joint Director of School Education (Personnel)."

5.6 Rule 8 of the said set of rules reads as under:-

> "8. Tests.- No person shall be eligible for appointment to the post of Deputy Inspector of Schools unless he has passed the following tests:-
> (i)Tamil Nadu School Education Department Administrative Test - - Paper I (Higher Secondary / Secondary / Teacher Training and Special Schools)
> (ii)Tamil Nadu School Education Department Administrative Test – Paper – II (Elementary / Middle and Special Schools)
> (iii)Account Test for Subordinate Officer Part - I"

5.7 The conjoint consideration of the above takes this Court to the first point to be decided, of these two sets of Rules, which one holds the field. In this regard it needs to be noted that, the very opening part of the notification dated 30 January 2020 reads as under:-

> "In exercise of the powers conferred by proviso to Article 309 of the Constitution of India and of all other powers hereunto enabling <u>and in supersession of the Special Rules for Tamil Nadu Elementary Educational Subordinate Service, contained in Section 48A in volume III of the Tamil Nadu Services Manual, 2016</u> so far as they relate to the posts now coming under the School Education Department and included in the present rules, the Governor of Tamil Nadu hereby re-issue the following Special Rules for the Tamil Nadu Elementary Educational Subordinate Service (Section 48A in Volume- III of the Tamil Nadu Service Manual,2016)"
>
> (emphasis supplied)

5.8 The above makes two things clear. Firstly, the notification dated 30 January 2020 is issued in exercise of powers

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

WEB COPY

under proviso to Article 309 of Constitution of India and thus does have statutory force. Secondly, it also defines that, the same is in supersession of all earlier Rules and Regulations in that regard including Section 48A, which is referred above as the earlier set of Rules. The conjoint reading thereof would leave no room but to hold that, of these two sets of rules, it is the subsequent set of rule (Notification dated 30 January 2020) which holds the filed and it should be the guiding factor for deciding the controversy at hand.

6.1 Having held that, it is the notification dated 30 January 2020, which would be a guiding factor, still the argument of learned Additional Advocate General is right to the extent that, when the powers are administrative in nature, the court would be very slow to exercise discretion to interfere in such matters. We find that, though this contention is right, the notification dated 30 January 2020 can not be said to be administrative instruction but it has binding force and since it is in exercise of powers under proviso to Article 309 of the Constitution of India, the appellants are statutorily entitled to take shelter under that notification, if any breach thereof is pointed out. Keeping these parameters in view, we have examined the action of the State.

6.2 The said notification defines appointment in different categories. Category 1 is 'Deputy Inspector of Schools'. 'Graduate Teacher (subjects)' is treated as Category 2 in other words altogether a different category than 'Deputy Inspector of Schools'. If this is compared with the earlier superseded rules, both these categories were treated under the same head.

6.3 The method of appointment in these different categories is also defined statutorily. The same is quoted hereinabove in para : 5.4. That would show that, the appointment on the post of Deputy Inspector of Schools, which is statutorily defined as different category then the Graduate Teacher, is made by 'transfer' from Category 2 i.e., from amongst the persons working in the category of Graduate Teachers. All persons who are working as Graduate Teachers can not be appointed on Deputy Inspector of Schools. For this purpose, Rule 8 comes in play, which is already quoted above.

6.4 The above would lead to a situation that the persons who are working as Deputy Inspector of Schools, at one stage would have worked as Graduate Teachers because that is the 'source category' from which they are appointed as Deputy Inspector of Schools but all Graduate Teachers can not be transferred and appointed as Deputy Inspector of Schools because the further statutory requirement is provided under Rule 8, quoted above.

6.5 Thus, the reading of Rule 11 regarding Transfer and Postings as sought to be pressed into service on behalf of the State needs to be weighed vis-a-vis the mode of appointment provided under

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

WEB COPY

Rule 2 read with Rule 8 and it takes to a situation that a Graduate Teacher who satisfies the condition under Rule 8 can be appointed as Deputy Inspector of Schools and since the mode of appointment statutorily prescribed is by transfer, the word 'transfer' is used at the time of said appointment. The appointment of Graduate Teachers therefore on the post of Deputy Inspector of Schools, according to us, is the appointment as statutorily prescribed and the word 'transfer' used at that time is to be understood as the mode of appointment and not administrative transfer.

6.6 Having held as above, we find that, when a Deputy Inspector of Schools is attempted to be brought back as Graduate Teacher, it needs to be examined what is the mode of appointment provided for Graduate Teacher. As it is noted above, appointment of Deputy Inspector of Schools is statutorily prescribed by transfer, but the same is consciously absent in the mode of appointment of Graduate Teacher. Therefore what is statutorily not permitted, or in other words, what was interchangeable in the earlier set of Rules is consciously deleted in the subsequent statutory set of Rules, can not be read as administrative power of the State. Though the Court would be very slow to interfere in the administrative actions of the State, when it is pointed out that the said action is governed by statutory rule, in absence of that power, the impugned action of the State, according to us, was without any authority of law and was inconsistent with the notification dated 30 January 2020.

7.1 Having found as above, we have examined the reasons recorded in the order under challenge. We find that, learned Single Judge in para : 23 observed as under:-

> "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. .... ."

7.2 In para : 31, it is noted as under:-

> "31. What is to be considered by this Court is ... Therefore, the new Rule cannot be interpreted as if the post of Deputy Inspector of Schools is a distinct category and ...."

7.3 The reasoning of learned Single Judge in substance [vide para : 33] is to the effect that - "if the Rule contemplates by transfer then it is to be made only by way of transfer and the word 'transfer' indicates that the post of Deputy Inspector of

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

WEB COPY

Schools and Graduate Teachers are interchangeable as it is identical scale of pay." This according to us, is erroneous reading of the notification dated 30 January 2020. We further find that, learned Single Judge was also swayed away by reasoning [vide para :33] that "thus routine transfers between the post of Deputy Inspector of Schools and Graduate Teachers are contemplated under the special-rules and thus there is no infirmity in the circular issued by the Joint Director". We find that, learned Single Judge, with great respect, fell in error in reading in the set of Rules, what is not written.

8. On conjoint consideration of the above, we find that, the action of the State was inconsistent with the provisions of the notification and the learned Single Judge, while rejecting the claim of the petitioners fell in error, which according to us, is error apparent on the face of record and the same needs to be corrected in these intra-court appeals, under Clause 15 of Letters Patent. While doing so, we further hold that the State is well within its right to transfer the appellants to any place as per administrative requirement, but on the post of Deputy Inspector of Schools, which is distinct category under statutory Rules and which they are holding statutorily.

9.1 For the above reasons, the following order is passed:-

9.2 These appeals are allowed.

9.3 The impugned order of learned Single Judge is quashed and set aside.

9.4 The writ petitions are allowed and the impugned orders in writ petitions i.e. the general directions contained in order dated 06 January 2022 and consequential individual orders dated 07 January 2022 are quashed and set aside. It is noted that, by the interim order on the writ petitions, those orders were already kept in abeyance and have not been implemented at any point of time. It is those orders which are set aside by this order.

9.5 No costs. Consequently, connected miscellaneous petitions would not survive.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ssm/10

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

WEB COPY

To

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.

8.The Chief Educational Officer,
Karur District,
Karur.

9.The District Educational Officer,
O/o. District Educational Office,
Karur Taluk, Karur District.

+6 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-14780 & 14783[F] dated 28/03/2022)

+1 CC to M/s.SPL GP (SR-14823[F] dated 28/03/2022)

W.A(MD)Nos. 254 and 255 of 2022
25.03.2022

SG(CO)
TR(19.04.2022) 15P 17C

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