



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.03.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.4469 of 2022

and

W.M.P. (MD) Nos.3761 and 3762 of 2022

S.Perumal,
S/o.Sankaran,
B.T.Assistant (Maths),
Government High School,
Kattathi Unjiyaviduthi,
Thanjavur District.

... Petitioner

Vs.

1. The Commissioner,
School Education Department,
DPI Campus,
College Road,
Nungambakkam,
Chennai - 600 006.
2. The Chief Educational Officer,
Chief Educational Office,
Thanjavur.
3. The District Educational Officer,
Orathanadu Education District,
Orathanadu,
Thanjavur District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus calling for the records relating the impugned surplus lists prepared by the second respondent in Form-2 and the consequential impugned proceedings in Na.Ka.No.25154/a1/e2/2021 dated 03.03.2022 issued by the first respondent for conducting or deployment counselling on 14.03.2022 and to quash the same insofar as which relates to the petitioner and consequently direct the respondents to pass necessary orders to permit the petitioner to serve in the Government High School, Kattathi, Unijaviduthi, Thanjavur District.



For Petitioner : Mr.F.Deepak
For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader

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O R D E R

The order treating the petitioner as surplus in proceedings dated 03.03.2022 and the order of proposal to conduct deployment counselling on 14.03.2022 are under challenge in the present Writ Petition.

2. The petitioner is now working as a B.T.Assistant. The learned counsel appearing for the petitioner mainly contended that the School in which the petitioner is presently working has sufficient students strength. Therefore, there is no need to treat the petitioner as surplus. The petitioner joined in the present School on 16.09.2021. Therefore, he must be allowed to continue in the School.

3. The learned counsel for the petitioner states that the students studying in the School are fond of the petitioner or more attracted with the teaching capacity of the petitioner and they have given a letter to the Headmaster to allow the petitioner to take classes in the School. The students have also made a request to cancel the order treating the petitioner as surplus teacher.

4. The learned Additional Government Pleader furnished a copy of the proceedings dated 02.11.2021 issued by the Joint Director of School Education. As per the proceedings, the other Teachers are senior to the writ petitioner and the writ petitioner is junior. Therefore, the petitioner was declared as surplus and permitted to participate in the surplus counselling scheduled to be held on 14.03.2022.

5. As far as the students strength is concerned, the petitioner could not able to establish. Furthermore, the petitioner being a Teacher, is no way connected with the administrative affairs of the Department. He being an employee of the Educational Department, is entitled to claim his service right and in respect of the administrative affairs and the petitioner has no *locus standi* to question.

6. Treating a teacher as surplus is the administrative incident depending upon various facts. Merely treating an employee as surplus would not provide a cause for moving a Writ Petition, as treating an employee as surplus would not result in infringement of service right. Therefore, certain administrative incident or the administrative transfer or treating some juniors as surplus is unconnected with the service rights of the employees. Therefore, declaring an employee as surplus would not *per se* provide a cause



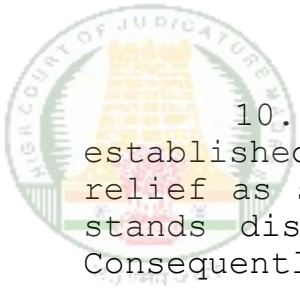
for filing Writ Petition under Article 226 of the Constitution of India. In the absence of any such cause, no writ needs to be entertained. However, if an employee could able to establish that treating an employee as surplus is without any jurisdiction, then alone, the writ needs to be entertained, but not otherwise.

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7. Administrative transfers are the prerogative of the Department concerned and the competent authorities are the best persons to assess and act accordingly. However, those competent authorities should act in the interest of public and in the event of any illegality or some personal motive, then alone, the employee can approach the Court of law for appropriate remedy. In other words, if an order of transfer is issued with a *mala fide* intention or in violation of the statutory rules, then a writ petition can be entertained. Even in such cases, the allegation of *mala fide* intention must be substantiated in the writ proceedings and the official concerned must be impleaded as party respondents in the writ proceedings. In the absence of any such legal ground, routine administrative transfers can never be interfered with by the Constitutional Courts. Transfer is an incidental to service, more so, a condition of service. Public servant is liable to work wherever he is posted in the interest of public administration. On accepting the offer of appointment, a person is agreeing for the conditions of service and transfer being incidental, he must be in a position to work, wherever he is posted.

8. Place or post can never be claimed as a matter of choice by the public servants. All public servants are duty bound to perform their duties diligently and with utmost care and devotion. These being the basic principles to be followed, erosion in this regard can never be tolerated either by the officials or by the Courts. High Court cannot interfere with the routine administration of the State or its organization. In the event of such routine interference in administration, more specifically, in transfer cases, the very discipline and the functioning of the administration would be paralyzed. Thus, the judicial review of administrative transfers must be exercised with restraint and only on exceptional circumstances, such orders of transfers can be interfered with by the High Courts and not otherwise. This being the scope of the judicial review of administrative transfers issued by the competent authorities, this Court is of an undoubted opinion that the writ petitioner has not established any such strong acceptable ground for the purpose of interference in the order of transfer.

9. As per the proceedings of the Joint Director of School Education, based on the inspection, the petitioner, who is junior in that School, was treated as surplus and he was permitted to participate in the surplus counselling which is scheduled to be held on 14.03.2022. Therefore, the petitioner is at liberty to participate in the counselling and accordingly, he may join in the



10. In view of the fact that the petitioner has not established any acceptable ground for the purpose of considering the relief as such sought for in this Writ Petition, this Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar

To

1. The Commissioner,
School Education Department,
DPI Campus, College Road,
Nungambakkam,
Chennai - 600 006.
2. The Chief Educational Officer,
Chief Educational Office,
Thanjavur.
3. The District Educational Officer,
Orathanadu Education District,
Orathanadu,
Thanjavur District.

+1 CC to M/s.SPL GP (SR-11836[F] dated 14/03/2022)

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and

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vji

MS/22.03.2022/4P.5C