



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.05.2022

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. [MD] .No.9263 of 2022

and W.M.P. (MD) Nos.6640 and 6642 of 2022

P.Sankar Kumar

.. Petitioner

Vs.

1.The Chief Educational Officer,
Thenkasi.

2.The District Educational Officer,
Sankarankovil Educational District,
Sankarankovil,
Thenkasi District.

3.The Block Educational Officer,
Alangulam Block,
Thenkasi District.

4.Anthony Paulraj

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned order of 2nd Respondent in Na.Ka.No.4282/A1/2021 dated 06.04.2022 (received on 25.04.2022) and quash the same.

For Petitioner

: Mrs.Porkodi Karnan
for Polax Legal Solutions

For Respondents 1 to 3

: Mr.D.Gandhi Raj
Special Government Pleader

O R D E R

Mr.P.Sankar Kumar, S/o. K.G.Pichaiah, working as Secondary Grade Teacher has questioned the correctness of the impugned order passed by the second respondent and prayed for quashing the same.

2. Learned counsel for the petitioner would submit that the petitioner after joining as Secondary Grade Teacher on 29.02.2008 at Panchayat Union Primary School, Maruthamputhur, the fourth



respondent joined as Headmaster in the same school in the year 2017. Thereafter, mismanagement and unauthorized absence by the teachers had happened. Moreover, the beneficiary schemes of the Government to the students have not been properly implemented by the fourth respondent. This apart, the Service Register of the Teachers were also not properly maintained and many irregularities have been committed by the fourth respondent. Therefore, the petitioner questioned the same. Irritated by the same, the impugned order has been passed against him. The petitioner has also given a complaint to the respondents 1 to 3 regarding the mismanagement of the fourth respondent. As a result, the fourth respondent has instigated the female teachers to lodge a false complaint against the petitioner. Based on which, the petitioner was issued with the charge memo under Section 17(a) of Tamil Nadu Civil Services (Discipline and Appeal) Rules on 16.03.2022 and the petitioner has also given his explanation, denying the charges mentioned in the charge memo. The charges framed under Rule 17(a) of Tamil Nadu Civil Services (Discipline and Appeal) Rules are frivolous, false and unacceptable one. Even after receipt of the explanation, before passing final order, the impugned order has been passed transferring the petitioner from Maruthamputhur Panchayat Union Primary School to Balapathiramapuram Village.

3. Learned counsel for the petitioner also would state that even during the pandemic period the fourth respondent has been acting without following any procedure and hence, the petitioner has brought to the knowledge of the second respondent, the irregularities committed by the fourth respondent. Hence, the impugned order of transfer has been passed.

4. While concluding her arguments, she submitted that it is settled law that no person can be transferred on the basis of the complaint without holding any enquiry. However, in the present case, the impugned order has been passed by the second respondent after issuing charge memo under Rule 17(a) without considering the explanation given by the petitioner. It clearly shows that the impugned order is vindictive in nature.

5. In reply, the learned Special Government Pleader appearing for respondents 1 to 3 submitted that although the allegations made by the female teachers working in the same school are serious, the impugned order passed on 06.04.2022 is nothing to do with the charge memo.

6. I find no merit in the submissions made by the learned counsel for the petitioner. The petitioner has been shifted from the present place to another place, which is less than 40 kilometres. As it is well settled legal position of law that the transfer being not only incidental of service but also conditional service, the petitioner cannot complain that the impugned order of transfer is



against the settled legal position. Moreover, a reading of the impugned order does not show that the order is punitive in nature.

7. Therefore, the Writ Petition fails and the same is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Vacation Officer

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

sj/skn

To

1.The Chief Educational Officer,
Thenkasi.

2.The District Educational Officer,
Sankarankovil Educational District,
Sankarankovil,
Thenkasi District.

3.The Block Educational Officer,
Alangulam Block,
Thenkasi District.

+1 CC to M/s.POLAX LEGAL SOLUTIONS, Advocate (SR-23546[F] dated 06/05/2022)

+1 CC to M/s.SPL.GP (SR-23505[F] dated 06/05/2022)

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MGJ(13.05.2022) 3P 6C