



W.P.(MD)No.11893 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.09.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.11893 of 2022

and

W.M.P(MD)Nos.8450 & 8451 of 2022

K.Kumar

... Petitioner

Vs

- 1.The Commissioner of School Education,
Office of the Commissioner of School Education,
Nungambakkam,
Chennai.
- 2.The Joint Director of School Education (Personnel),
Office of the Joint Director of School Education,
Chennai – 600 006.
- 3.The Chief Educational Officer,
Thanjavur District,
Thanjavur.
- 4.The District Educational Officer,
Office of the District Educational Officer,
Kumbakonam,
Thanjavur District.
- 5.Elavarasu

... Respondents



W.P.(MD)No.11893 of 2022

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the second respondent in his proceedings Na.Ka.No. 69836/C2-E1/2021 dated 06.01.2022 and the consequential impugned order passed by the third respondent in his proceedings Na.Ka.No.9810/Ee1/2021 dated 07.04.2022 and the consequential impugned order passed by the third respondent in his proceedings Na.Ka.No.9810/Ee1/2021 dated 07.04.2022 and quash the same as illegal.

For Petitioner : Mr.S.Mohamed Suhail
for M/s.Ajmal Associates

For Respondents : Mr.S.Shaji Bino
Special Government Pleader
for R.1 to R.4

No Appearance for R.5

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Special Government Pleader appearing for the official respondents. The fifth respondent who is a private party has been served and his name is also printed in the cause list but he has not chosen to enter appearance.

2. The writ petitioner was working as Deputy Inspector of Schools in Kumbakonam, Thanjavur District. By the impugned order dated 07.04.2022 he has been transferred and posted as B.T.Assistant (Mathematics) in



W.P.(MD)No.11893 of 2022

Government Higher Secondary School, Thiruvaipadi, Thanjavur District. The fifth respondent herein had been transferred and posted as Deputy Inspector of Schools in Kumbakonam Education District in the place of the writ petitioner.

3. The learned counsel appearing for the writ petitioner relies on the order dated 25.03.2022 passed by the Hon'ble Division Bench in W.A(MD)Nos. 254 and 255 of 2022. The Hon'ble Division Bench had held that the post of Deputy Inspector of Schools and the Post of Graduate Teacher are not interchangeable.

4. The learned Special Government Pleader would state that the order passed by the Hon'ble Division Bench has been challenged before the Hon'ble Supreme Court by filing Special Leave Petition. However, interim order is yet to be granted. The impugned orders were passed on 07.04.2022 ie., after the decision of the Hon'ble Division Bench was already rendered. That makes the impugned orders lacking in jurisdiction. The impugned orders dated 01.04.2022 had been given effect to. The writ petitioner had already complied with the order of transfer. In normal circumstances, I would have non-suited the petitioner on the ground of laches and acquiescence. But this cannot be a ground for dismissing the writ petition when the arguments have been advanced



W.P.(MD)No.11893 of 2022

on the ground of jurisdiction. There is no doubt that the impugned orders are lacking in jurisdiction. Respectfully following the decision of the Hon'ble Division Bench rendered in W.A(MD)Nos.254 and 255 of 2022, I quash the order impugned in the writ petition.

5. This writ petition is allowed. Consequently, connected miscellaneous petitions are closed. No costs.

29.09.2022

Index : Yes / No
Internet : Yes/ No
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To

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W.P.(MD)No.11893 of 2022

4. The District Educational Officer,
Office of the District Educational Officer,
Kumbakonam,
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W.P.(MD)No.11893 of 2022

G.R.SWAMINATHAN, J.

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W.P.(MD)No.11893 of 2022

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