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W.P.(MD)NO.21733 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.21733 of 2022 and
W.M.P.(MD)Nos.15894 & 15895 of 2022

V.Packiaselvi

... Petitioner

Vs.

1. The Commissioner of School Education,
DPI Campus, Chennai – 6.
2. The Joint Director of Elementary Education,
DPI Campus, Chennai -6.
3. The Chief Educational Officer,
Thoothukudi District.
4. The District Educational Officer,
Kovilpatti,
Thoothukudi District.
5. The Block Educational Officer,
Pudur, Thoothukudi District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No. 3160/A1 / 2022 dated 04.08.2022 on the file of the respondent No.4 and quash the same as illegal and consequently for a direction, directing the respondents to



transfer the petitioner to the post of Secondary Grade Teacher at Panchayat Union Primary School, Seetharkulam, Karunkulam Block, Thoothukudi District in pursuance to the proceedings of the respondent No.3 vide Na.Ka.No.4600/E2/2021 dated 27.06.2022 within the time period stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents: Mr.S.Shaji Bino,
Special Government Pleader.

* * *

ORDER

Heard the learned counsel on either side.

2. The writ petitioner is working as Secondary Grade Teacher in Panchayat Union Primary School, S.Kumarapuram, Pudur Block, Thoothukudi District. She took part in the transfer counselling that was held on 25.02.2022. The petitioner aspired to be posted at Panchayat Union Primary School, Seetharkulam, Karungulam Block in Thoothukudi District. However, the said vacancy was allotted to one Thiru.S.Senthil who admittedly was junior to the writ



petitioner. However, he claimed that he was entitled to preferential treatment. According to him, being a widower, he should be considered under the priority category.

3. The said Senthil was posted to the place on which the writ petitioner had an eye. The petitioner gathered details about Senthil and lodged a complaint that after the demise of his first wife, he got remarried and that therefore, he cannot be considered as a widower and that he is not entitled to be treated under the priority category. Enquiry was conducted and it was discovered that Thiru.Senthil had made false claim and that he had suppressed the factum of his remarriage. He was relieved from the said place. A copy of the relieving order dated 30.06.2022 issued by the Block Educational Officer, Karunkulam, has been enclosed at page No.52 of the typed set of papers. Since the said posting became vacant, the petitioner submitted representation for being posted in that place. Since it was not considered, the petitioner filed W.P. (MD)No.14361 of 2022. This Court vide Order dated 06.07.2022 directed the fourth respondent herein to pass order thereon. Pursuant to the said order, the impugned order



came to be passed. The petitioner was informed that she can stake her claim during the next counselling. Challenging the said order, this writ petition came to be filed.

4. The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant the relief as prayed for.

5. Per contra, the learned Special Government Pleader submitted that the impugned order does not warrant any interference. According to him, transfer can be made only at the time of general counselling. This is to avoid unnecessary confusion. Therefore, the petitioner can make her claim only during the next general counselling and not during the intervening period. He pressed for dismissal of the writ petition.

6. I carefully considered the rival contentions and went through the materials on record.



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7. The petitioner had taken part in the counselling that was held on 25.02.2022. The petitioner wanted to be posted in Seetharkulam Panchayat Union Primary School, Karunkulam Block. The request of the petitioner would have been honoured in the normal course. But her junior Thiru.Senthil claimed posting under priority category and he was given posting in the place preferred by the petitioner. Later it turned out that Senthil had made false claim. Senthil has been relieved from Seetharkulam Panchayat Union Primary School, Karunkulam Block. The said post is now lying vacant.

8. The question is whether the petitioner should wait till the next counselling or whether her case can be considered now itself. In my view, the petitioner was denied the opportunity of being posted at Seetharkulam Panchayat Union Primary School, Karunkulam Block, on account of the fraud committed by her junior Thiru.Senthil. In the very nature of things, the petitioner should have been posted in his place. The petitioner need not wait till the next counselling is



conducted.

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9. In this view of the matter, the order impugned in this writ petition is set aside. The second respondent is directed to issue proceedings posting the writ petitioner in Panchayat Union Primary School, Seetharkulam, Karunkulam Block, Thoothukudi District, within a period of three weeks from the date of receipt of a copy of this order. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

03.11.2022

Index : Yes / No
Internet : Yes/ No
PMU

To:

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G.R.SWAMINATHAN,J.

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