



W.P.No.1003 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:12.01.2023

Coram

The HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P.No.1003 of 2023
and
W.M.P. Nos.985 to 987 of 2023

J.Jothi Bai

.. Petitioner

vs

1.State of Tamil Nadu rep. By its
Principal Secretary to the Government,
Higher Education Department,
Fort St. George, Chennai – 9.

2.Director,
Directorate of Collegiate Education,
9th Floor, EVK Sampath Building,
College Road, Chennai – 6.

3.The State Commissioner,
Welfare of the Differently-abled,
No.5, Kamarajar Salai,
Lady Willingdon College Campus,
Chennai – 5.

4.Principal,
Government Arts College,
Dharmapuri – 636 705.

.. Respondents

Petition filed under Article 226 of the Constitution of India
praying to issue a writ of certiorarified mandamus to call for the



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records of the first respondent in G.O.Ms.No.192 Department of Higher Education dated 26.09.2022 and to quash the order insofar as posting the petitioner to Dharmapuri and consequently direct the respondents to consider the petitioner for posting in any of the vacancies in Chennai Region.

For Petitioners : Mr.L.P.Maurya
For Respondents : Mr.D.Ravichander,
Spl. Govt. Pleader

ORDER

The grievance of the petitioner, who is a physically challenged person having 79% locomotive disability, is that she has been transferred from Chennai to Dharmapuri in violation of the provisions of the Rights of Persons with Disabilities Act, 2016. The petitioner also relies upon the letter dated 22.07.2009 issued by the Personnel and Administrative Reforms (S) Department, Secretariat, Chennai - 9 which reads as follows:

"3.This Government, after detailed examination, decided to issue fresh guidelines in the matter in tune with the guidelines issued by the Government of India as follows:



i)Physically challenged Government Servants in all Groups viz., A, B, C and D shall be posted near to their native places wherever possible.

ii)The above concession may be considered subject to administrative constraints.

iii)Transfers effected based on administrative reasons and as a matter of disciplinary proceedings will not attract the concession ordered in item (i) above.”

2. The petitioner also relies upon the order dated 08.11.2022 passed by the Court of State Commissioner For Persons With Disabilities in File No.008286/LO/2022 wherein a direction was issued to the Director of Collegiate Education to comply in letter and spirit all the guidelines issued by the Government of Tamil Nadu regarding the transfer of physically challenged Government servants.

3. The petitioner had also given several representations even prior to the passing of the impugned order not to transfer her considering her physical disability.



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4. After giving due consideration to the physical disability of the petitioner, this Court is inclined to direct the respondents to consider the petitioner's representation seeking to retain her at Chennai instead of transferring her to Dharmapuri as per the impugned transfer order within a time frame to be fixed by this Court. Since the petitioner is presently working at Chennai, in the interest of justice, till her representation requesting for her retention at Chennai is considered on merits, she will have to be retained at Chennai considering her physical disability.

5. This Court is of the considered view that it will suffice if two weeks time is granted to the respondents to consider the petitioner's representation on merits and in accordance with law.

6. For the foregoing reasons, this Court directs the second respondent to pass final orders on merits and in accordance with law on the petitioner's last representation dated 03.11.2022 seeking for her retention at Chennai, after giving due consideration to her physical disability and to the Letter (Ms) No.92/S/09 of the Personnel and Administrative Reforms Department, Secretariat, Chennai dated 22.07.2009 as well as the order dated 08.11.2022



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passed by the State Commissioner For Persons With Disabilities in File No.008286/LO/2022 within a period of two weeks from the date of receipt of a copy of this order. Till final orders are passed, the respondents shall not disturb the petitioner's present place of posting at Chennai.

7. With the aforesaid direction, the writ petition stands disposed of. No costs. Consequently connected miscellaneous petitions are closed.

12.01.2023

Index:Yes/No
Neutral Citation:Yes/No
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To

- 1.The Principal Secretary to the Government,
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Directorate of Collegiate Education,
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- 3.The State Commissioner,
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- 4.The Principal,

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Government Arts College,
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ABDUL QUDDHOSE,J.

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