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W.P.No.6119 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.6119 of 2015

R.Christal Mary

... Petitioner

Vs.

1.Government of Tamilnadu

Represented by Principal Secretary to Government,
School Education Department,
Secretariat, Chennai 600 009

2.The Director of Elementary Education,
Chennai 600 006

3.The District Elementary Educational Officer,
Thoothukudi

4.The Assistant Elementary Educational Officer,
Alwarthirunagari,
Thoothukudi District

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent relating to the order in Letter No.16601/Nee/Va.2(2)/2014-1 dated 16.10.2014, to quash the same and to issue consequential directions to the respondents to regularize the period from 16.12.2002 to 24.09.2008 as 'Compulsory Wait' and 'duty' for all purposes and disburse the consequential monetary benefits with interest.



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For Petitioner : Mr.S.Balakrishnan
for Mr.M.Ravi

For Respondents : Mr.T.M.Rajangam,
Government Advocate

ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 16.10.2014, thereby rejected the request made by the petitioner to regularise the period from 16.12.2002 to 24.09.2008 as compulsory wait and duty for all purposes.

2. Heard, the learned counsel appearing on either side.

3. The petitioner was originally appointed as Secondary Grade Teacher on 10.06.1991 in the Municipal Primary School, Vadakkur, Thoothukudi District and thereafter she was transferred to Levinchipuram on 28.08.1992. Again, she was transferred to Alwarthirunagari Panchayat Union on 07.01.1999. At this juncture, she made a representation on 01.08.2002 to the third respondent to refix her seniority in the said Panchayat Union with reference to the date of her initial



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appointment as Secondary Grade Teacher i.e. from 10.06.1991. When it was pending, the petitioner was instructed to attend counselling on 07.10.2002 with regard to redeployment of posts of Secondary Grade Teachers. She was ordered redeployment from Alwarthirunagari Union to Ottapidaram Union and posted to Malaipatti on the ground that the strength of the student in Alwarthirunagari Panchayat Schools were below the norms prescribed as per G.O.Ms.No.525, Education, dated 29.12.1997. In the said panchayat. She was declared as junior and as such the petitioner was considered as surplus and redeployed to the Ottapidaram Union.

4. Challenging the same, the petitioner preferred original application before the Tamilnadu Administrative Tribunal in O.A.No.6256 of 2002. The Tamilnadu Administrative Tribunal directed the third respondent to consider her representation in the light of the Government Order within a period of eight weeks. However, it was not considered and as such the petitioner made representation pointing out that though three vacant posts of Secondary Grade Teacher in



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Alwarthirunagari was notified i.e. Karungadal, Kurumbar and Sethukuvaithan, in the counselling it was shown the vacancy of Karungadal and it was also filled up with one, Saraswathi from Ottapidaram Union. However, the request made by the petitioner was rejected. Hence, the petitioner preferred writ petition before this court in WP.No.19532 of 2004 in order to implement the order passed by the Tribunal on 07.02.2003. It was informed that already the third respondent passed order dated 31.03.2003. Again, the petitioner filed writ petition before this Court and thereafter the petitioner was given posting to Thalaivanvadali in Alwarthirunagari Union by order dated 17.09.2008. She had joined duty on 25.09.2008. Therefore, the petitioner made request to treat the period from 16.12.2002 to 24.09.2008 as compulsory wait and duty for all purposes on the ground that there was no lapse on her.

5. On perusal of counter, revealed that the petitioner filed application before Tamil Nadu Administrative Tribunal in O.A.No.6256 of 2002 and by order dated 07.02.2003 directed the third respondent to



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consider her request and pass orders within a period of eight weeks.

However, the petitioner failed to join in the school in which she was redeployed. However, one, Saraswathi was redeployed and she joined in the school in which she was transferred to Karungadal in the counselling conducted by the third respondent. As directed by the Tribunal, the third respondent passed order on 31.03.2003 thereby posted the petitioner to Malaipatti Panchayat Union School, Ottapidaram. She was duly informed that she would be absorbed in the Alwarthirunagari Panchayat Union Schools depending on the need in the coming year according to seniority. However, the petitioner did not join the duty and again filed writ petition before this court in WP.No.19532 of 2004.

6. As directed by this Court by an order dated 17.03.2008, the petitioner was again given posting in the Panchayat Union School, Thalaivanvadalai in Alwarthirunagarai Union. Accordingly, she had joined in the Panchayat Union School, Thalaivanvadali on 25.09.2008. Therefore, the petitioner was without doing any work and staying in her house from 16.12.2002 to 25.09.2008, by filing writ petitions. In fact,



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aggrieved by the order passed in WP.No.19532 of 2004, the petitioner also challenged by way of writ appeal in WA.No.305 of 2009 and the same was also dismissed holding that the transfer is incidental to service. Therefore, the petitioner in order to avoid transfer, filed original application before the Tamil Nadu Administrative Tribunal and also writ petition before this Court without joining the station to which she was posted. Because of her non joining duty, the said post was kept vacant for more than twenty months. Therefore, the said period was treated as 'no work and no pay'. Hence, this court finds no infirmity or illegality in the order passed by the first respondent. As such, the writ petition is devoid of merits.

7. Accordingly, this writ petition is dismissed. There shall be no order as to costs.

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Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

- 1.Principal Secretary to Government,
Government of Tamilnadu
School Education Department,
Secretariat, Chennai 600 009
- 2.The Director of Elementary Education,
Chennai 600 006
- 3.The District Elementary Educational Officer,
Thoothukudi
- 4.The Assistant Elementary Educational Officer,
Alwarthirunagari,
Thoothukudi District
5. The Government Advocate,
High Court, Madras.

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