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W.A.No.35 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.03.2023

CORAM

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN
AND
THE HONOURABLE Mr.JUSTICE MOHAMMED SHAFFIQ

W.A.No.35 of 2023
and C.M.P.No.343 of 2023

Ramadass
Deputy Inspector of School
District Educational Office
Villupuram, Villupuram District.

.. Appellant

Vs.

1.N.Ramesh
Deputy Inspector of School
District Educational Office
Chengalpattu, Chengalpattu District

2.V.Kirubakaran
Deputy Inspector of School
District Educational Office
St.Thomas Mount, Chrompet,
Chengalpattu District

3.A.Roseline Mary
Deputy Inspector of School
District Educational Office
Chennai District



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4.K.Prabakar
Deputy Inspector of School
District Educational Office
Chennai South, Chennai District

5.A.Manivasagam
Deputy Inspector of School
District Educational Office
Vellore, Vellore District

6.R.V.Ramanathan
Deputy Inspector of School
District Educational Office
Nagapattinam, Nagapattinam District

7.R.Thilak
Deputy Inspector of School
District Educational Office
Mayiladudurai, Mayiladudurai District

8.G.Kumar
Deputy Inspector of School
District Educational Office
Thiruvannamalai, Thiruvannamalai District

9.The Commissioner of School Education
O/o. Commissioner of School Education
Nungambakkam, Chennai

10.The Joint Director of School Education (Personnel)
O/o. Joint Director of School Education
Chennai 600 006

11.The Chief Educational Officer
O/o.Chief Educational Officer
Chennai



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12.The Chief Educational Officer
Chengalpattu District,
Chengalpattu

13.The Chief Educational Officer
Villupuram District,
Villupuram

14.The Chief Educational Officer
Vellore District, Vellore

15.The Chief Educational Officer
Nagapattinam District,
Nagapattinam

16.The Chief Educational Officer
Mayiladuthurai District,
Mayiladuthurai

17.The Chief Educational Officer
Thiruvannamalai District,
Thiruvannamalai

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the
order dated 15.03.2022 passed in W.P.No.3623 of 2022 on the file of this
Court.

For Appellant : Mrs.A.Vinu Pradha

For RR9 to 17 : Mr.G.Nanmaran
Special Government Pleader



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JUDGMENT

[Judgement of the Court was delivered by R.MAHADEVAN, J.]

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Heard the learned counsel appearing for both sides and also perused the materials placed before this court.

2.Assailing the order dated 15.03.2022 passed by the learned Judge in W.P.No.3623 of 2022, the appellant / 5th petitioner in the said writ petition, has preferred this writ appeal before this Court.

3.It is the case of the appellant that he was appointed as a Secondary Grade Teacher in the year 1996 and was promoted as BT Assistant / Graduate Teacher (Maths) in the year 2009. Thereafter, in the year 2018, he was posted as Deputy Inspector of Schools, Villupuram District, in terms of Rule 8 of the Special Rules for the Tamil Nadu Elementary Education Subordinate Services, after passing and qualifying necessary exams as prescribed. While so, the second respondent by the proceedings dated 06.01.2022, issued a general direction to all Chief Educational Office to transfer all Deputy Inspectors of Schools, who are working for 3 years and



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more, as graduate teacher in Government Higher Secondary School.

Pursuant to the same, the appellant and 8 others, were transferred, which compelled them to file WP.No.3623 of 2022 to quash the said proceedings dated 06.01.2022 of the second respondent, stating that the post of Deputy Inspector of School and the post of Graduate Teacher are distinct and are not one and the same. By order dated 15.03.2022, the learned Judge dismissed the said writ petition, following the earlier order dated 04.03.2022 passed in WP(MD)No.429 of 2022. Feeling aggrieved, the appellant is before this court with the present writ appeal.

4.The learned counsel for the appellant submitted that one Selvam and others preferred WA(MD)Nos.254 and 255 of 2022 against the order dated 04.03.2022 passed in WP(MD)No.429 of 2022, based on which, the order impugned in this writ appeal came to be passed, and by a common judgment dated 25.03.2022, the said writ appeals were allowed by setting aside the order of the learned Judge and the proceedings of the second respondent dated 06.01.2022 along with consequential individual orders issued by the respondent authorities. Stating so, the learned counsel



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submitted that the basis for issuing the transfer order to the appellant dated 16.03.2022 was quashed by this court and hence, there is no transfer order existing as on date. Thus, according to the learned counsel, the order impugned in this writ appeal is liable to be set aside by this court.

5.On the other hand, the learned Special Government Pleader appearing for the respondent authorities submitted that the judgment of this Court dated 25.03.2022 in W.A.No.254 of 2022, is under challenge by filing S.L.P.(C)No.22009 of 2022 by the Department, and the same is pending before the Hon'ble Supreme Court.

6.Admittedly, the issue involved herein is covered by the judgment of this Court dated 25.03.2022 in W.A.Nos.254 & 255 of 2022, wherein, the Division Bench has set aside the order dated 04.03.2022 passed in WP(MD)No.429 of 2022, based on which, the order impugned in this writ appeal, came to be passed, besides setting aside the proceedings of the second respondent dated 06.01.2022 and the individual orders of the respondent authorities, by holding that the reasoning of the learned Judge



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that the post of Deputy Inspector of Schools and Graduate Teachers are interchangeable as it is identical scale of pay, is erroneous. The relevant passage of the said judgment is quoted below for ready reference:

“8. On conjoint consideration of the above, we find that the action of the State was inconsistent with the provisions of the notification and the learned Single Judge, while rejecting the claim of the petitioners fell in error; which according to us, is error apparent on the face of record and the same needs to be corrected in these intra-court appeals, under Clause 15 of Letters Patent. While doing so, we further hold that the State is well within its right to transfer the appellants to any place as per administrative requirement, but on the post of Deputy Inspector of Schools, which is distinct category under statutory Rules and which they are holding statutorily.

9.1 For the above reasons, the following order is passed:-

9.2 These appeals are allowed.

9.3 The impugned order of learned Single Judge is quashed and set aside.

9.4 The writ petitions are allowed and the impugned orders in the writ petitions i.e., the general directions contained in order dated 06 January 2022 and consequential individual orders dated 07 January 2022 are quashed and set aside. It is noted that, by the interim order on the writ petitions, those orders were already kept in abeyance and have not been implemented at any point of time. It is those orders which are set aside by this order.

9.5 No costs. Consequently, connected miscellaneous petitions would not survive.”

7. Though it is submitted on the side of the respondent authorities that the Department has preferred SLP(C) No.22009 of 2022 as against the judgment dated 25.03.2022 passed in WA(MD)No.254 of 2022, it could be seen that the Hon'ble Supreme Court has ordered only notice on 13.01.2023



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and has not granted any interim order in favour of the Department.

Therefore, this court is of the opinion that in the light of the aforesaid judgment dated 25.03.2022 passed in the writ appeals, the order of the learned Judge dated 15.03.2022 in WP.No.3623 of 2022 is liable to be set aside and is accordingly set aside. Consequently, the order passed by the respondent authorities is also set aside. However, the same is subject to the outcome of the order to be passed by the Hon'ble Supreme Court in SLP(C)No.22009 of 2022.

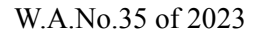
8.This writ appeal is allowed in the above terms. No costs.
Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] [M.S.Q., J.]
06.03.2023

Index: Yes / No
Speaking order/ Non-speaking order
Neutral Citation: Yes / No
nsd

To
1.The Commissioner of School Education
O/o. Commissioner of School Education
Nungambakkam, Chennai

8/10



Chennai 600 006

Chennai

Chengalpattu

Villupuram

Vellore District, Vellore

Nagapattinam

Mayiladuthurai

Thiruvannamalai



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R.MAHADEVAN, J.
AND
MOHAMMED SHAFFIQ, J.

nsd

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