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W.P.Nos.23876, 23879 & 23880 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2023

Coram

THE HON'BLE MR JUSTICE N.SATHISH KUMAR

Writ Petition Nos.23876, 23879 & 23880 of 2023
and

W.M.P.Nos. 23387, 23388, 23389, 23391, 23390 & 23392 of 2023

W.P.No.23876 of 2023

K.Manivannan

..... Petitioner

-Versus-

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Fort St. George, Secretariat,
Chennai 600 009.

2.The Director,
Tribal Welfare Department,
Chepauk, Chennai 600 005.

3.The Project Officer,
Tribal Welfare Department,
Salem District.

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order issued by the 2nd respondent in Na.Ka.No.Pamay/I2/9171/2022 dated 26.07.2023 insofar as the petitioner is concerned and quashing the same



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and consequently directing the respondents to allow the petitioner to continue to work in the post of B.T. Assistant (Science) in GTR High School, Adimalaipudur, Salem District.

W.P.No.23879 of 2023

S.Manikandan

..... Petitioner

-Versus-

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Fort St. George, Secretariat,
Chennai 600 009.

2.The Director,
Tribal Welfare Department,
Chepauk, Chennai 600 005.

3.The Project Officer,
Tribal Welfare Department,
Salem District.

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order issued by the 2nd respondent in Na.Ka.No.Pamay/I2/9171/2022 dated 26.07.2023 insofar as the petitioner is concerned and quashing the same and consequently directing the respondents to allow the petitioner to continue to work in the post of B.T. Assistant (Maths) in GTR High School, Adimalaipudur, Salem District.



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W.P.No.23880 of 2023

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..... Petitioner

-Versus-

- 1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Fort St. George, Secretariat,
Chennai 600 009.
- 2.The Director,
Tribal Welfare Department,
Chepauk, Chennai 600 005.
- 3.The Project Officer,
Tribal Welfare Department,
Salem District.

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order issued by the 2nd respondent in Na.Ka.No.Pamay/I2/9171/2022 dated 26.07.2023 insofar as the petitioner is concerned and quashing the same and consequently directing the respondents to allow the petitioner to continue to work in the post of B.T. Assistant (Tamil) in GTR High School, Adimalaipudur, Salem District.



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*For Petitioner (s) : Mr.G.Sankaran,
Senior Counsel for
Mr.S.Nedunchezhiyan for
Petitioner in all WPs*

*For Respondent (s) : Mr.M.Alagu Goutham,
Government Advocate for
RR1 to 3 in all WPs*

COMMON ORDER

Challenging the orders of transfer of the petitioners (i) K.Manivannan B.T. Assistant (Science), (ii) S.Manikandan, B.T. Assistant (Maths) and (iii) A.Alamelu, B.T. Assistant (Tamil) dated 26.07.2023 passed by the 2nd respondent – Director, Tribal Welfare Department, Chepauk, Chennai 600 005 from GTR High School, Adimalaipudur, Salem District, in the existing vacancies at Government Tribal Residential High Schools at Odaikattupudur, Ramanpati, and Kodungal respectively in the same district, the petitioners have come up with the individual writ petitions.

2. The brief facts leading to the filing of the writ petitions are as under:-

The petitioner in W.P.No.23876 of 2023 was initially appointed as B.T. Assistant (Science) on 12.03.2023 in the respondent department. The petitioner in W.P.No.23879 of 2023 was initially appointed as Secondary Grade Assistant in the respondent department on 19.02.2007 and thereafter, he



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was promoted as B.T. Assistant (Maths) on 01.11.2017. The petitioner in

W.P.No.23880 of 2023 was initially appointed as Secondary Grade Assistant on 31.12.2008 in the respondent department and thereafter, she was promoted as B.T. Assistant (Tamil) on 01.02.2022. As per G.O.Ms.No.132, Adi Dravidar and Tribal Welfare Department, dated 30.06.2022, a counselling for general transfer was conducted and the petitioners had also participated in the same. The petitioners were accordingly transferred to the GTR High School at Andimalaipudur and they had joined duty on 22.09.2022, 14.08.2020 and 21.09.2022 respectively. The petitioners in W.P.Nos.23876 & 23880 of 2023 have not yet completed even one year of service at Andimalaipudur. As per G.O.Ms.No.132, after the transfer in the general counselling is effected, no further transfer can be effected unless there is a serious complaint.

3. The impugned orders of transfer is challenged on the grounds that the officer who had passed the impugned orders lack jurisdiction and the orders have been passed in violation of Special Rules in the name of departmental transfer which is, according to the petitioners, actually incorrect.

4. The learned Government Advocate would contend that orders of transfer have been passed taking into account the fact that students ratio is very low at the school where the petitioners were working and only for the benefits



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of the students, transfers have been effected. Mere fact that the petitioners were transferred to GTR High School at Andimalaipudur, in the general counselling would not create absolute right to the petitioners to remain in the same place. The Director being superior officer has got jurisdiction to transfer the petitioner.

5. A perusal of the impugned orders of transfer would make it clear that the petitioners were transferred within the district. Though it was worded as if it was a departmental transfer, the fact remains that the transfer was effected for the benefit of the students.

6. No doubt, the petitioners in W.P.Nos.23876 and 23880 of 2023 were transferred to GTR High School at Andimalaipudur in the general counselling held as per G.O.No.132 dated 30.06.2022. Clause 9 of the said Government Orders makes it clear that after the transfer in the general counselling, there should not be any transfer unless there is a complaint. However, Rule 4 of the Special Rules for the Madras Harijan Welfare Subordinate Services, confers power on the Director to initiate transfer of teachers even after the general transfer.

7. Rule 4 of the Special Rules for The Madras Harijan Welfare Subordinate Services, postings and transfer shall be made by the appointing



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authorities within their respective jurisdiction and in all other cases by the

Director of Harijan Welfare.

8. The above rule does not limit the power of the Director. When the Director is the superior officer, he has all other administrative power including transfer. The petitioners have been transferred within the same District and the transferee school is situated hardly within 100 kms. When the transfers have been made in the larger interest of the students, the petitioners being teachers cannot shirk their responsibilities in teaching the students merely because the transferee school is situated at a far off place. There was no mala fide attributed to the transfers and the transfers have been challenged only on technical grounds. This court does not find any merits in the writ petitions and the same deserve only to be dismissed.

In the result, the writ petitions are dismissed. No costs. Consequently, connected WMPs are closed.

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Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
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N.SATHISH KUMAR.J.,

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Writ Petition

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