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W.P.No.32473 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.32473 of 2022
and W.M.P.Nos.31892 & 31894 of 2022

Dr. Leela Lochana

... Petitioner

Vs.

1.The Director of Collegiate Education,
Directorate of Collegiate Education,
Institute of Advance Study in Education Campus,
577, Anna Salai, Saidapet,
Chennai – 600 015.

2.The Principal,
Dr. Ambedkar Government Arts College,
Vyasarpadi, Chennai – 600 039.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the entire records connected with the impugned orders in Na.Ka.No.5013/C2/2022 dated 02.06.2022 and Na.Ka.No.36066/C2/2022 dated 31.10.2022 passed by the 1st respondent and quash the same.

For Petitioner : Mr.S. Sathia Chandran

For Respondents : Mr.S. Prabhakaran,
Government Advocate



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ORDER

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Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

2. The petitioner herein, is an Assistant Professor (English) in the second respondent/College. Through the impugned order dated 02.06.2022, she was transferred from the second respondent/College to the Government Arts College for Women, Salem – 08. When she had challenged the order before this Court earlier, a direction was issued in WP.No.20802 of 2022 dated 12.08.2022, calling upon the respondents to consider the petitioner's representation dated 27.07.2022 within a period of four weeks. In this background, an order dated 31.10.2022 was passed, rejecting the petitioner's representation dated 27.07.2022. Both the order of transfer, as well as the request, are put under challenge in the present Writ Petition.

3. The learned counsel for the petitioner, placed reliance on the Government Order in G.O.Ms.No.484, Higher Education (E2) Department dated 08.09.2004 and submitted that only when complaints have been



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inquired into by the Competent Authority and disciplinary action is proposed to be taken under *prima facie* evidence against the College, administrative transfers can be made. In view of the Government Order and by taking into account that the petitioner is a single mother, he sought for quashing of the transfer order.

4. Per contra, the learned Government Advocate appearing for the respondents submitted that there were complaints against the petitioner owing to which, such an administrative transfer was made. In this background, he submitted that the petitioner's request for reviewing the transfer order was rejected and there is no infirmity in the same.

5. The petitioner was transferred way back on 02.06.2022 and she had not joined the Government Girls Arts College, Salem, till date. One year has lapsed and both the posts at Chennai, as well as at Salem, are lying vacant, which would have seriously prejudiced the students of these Colleges.

6. In subsequent Government Order in G.O.Ms.No.245, Higher Education (F2) Department dated 08.11.2022, the Government had placed



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reliance on G.O.Ms.No.484 dated 02.06.2003 and formulated certain guidelines for the year 2022-2023. In both G.O.Ms.Nos.484 and 245 dated 02.06.2003 and 08.11.2022, the Government has been consistently holding that the administrative transfers will be made only when complaints have been inquired into by the Competent Authority and disciplinary action is proposed to be taken under *prima facie* evidence. The guidelines also states that the reasons for the administrative transfer are to be recorded in the relevant file.

7. The counter-affidavit, however, refers to written complaints that was made way back on 16.09.2019, which may not have nexus to the present transfer that was made in the year 2022, after about two years. The counter-affidavit also does not make any reference to any inquiry or disciplinary action initiated against the petitioner.

8. Though G.O.Ms.No.484 dated 08.09.2004 relates to the year 2004-2005 and since the respondents have made a reference of the same in G.O.Ms.No.245 dated 08.11.2022, there can be an inference with the guidelines that was issued for the year 2004-2005 which has been continued



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till G.O.Ms.No.245 was passed. Thus, the transfer order would be in violation of the guidelines.

9. This apart, this Court has also taken into consideration that both these posts at Chennai and Salem, have been kept vacant, which could have seriously affected the students and therefore, transferring the petitioner after one year to Salem, which is claimed to be an administrative reason, may not be appropriate.

10. In the light of the above findings and observations, the impugned orders dated 02.06.2022 and 31.10.2022 passed by the first respondent, are hereby quashed. Consequently, the second respondent herein, shall forthwith permit the petitioner to resume her duties.

11. Accordingly, the Writ Petition stands allowed. No costs. Connected miscellaneous petitions are closed.

27.06.2023

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M.S.RAMESH,J.

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To

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