



W.P.(MD)Nos.736 of 2023 & 23230 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)Nos.736 of 2023 & 23230 of 2022

and

W.M.P.(MD)Nos.736 of 2023, 17329 to 17331 of 2022

G.Angayarkanni

... Petitioner in both writ petitions

Vs.

- 1.The State of Tamilnadu
Rep. by its Principal Secretary,
School Education Department,
Chennai -9
- 2.The Commissioner of School Education,
O/o. Commissionorate of School Education,
DPI Campus,
Chennai.
- 3.The Director of Elementary Education,
O/o. Directorate of Elementary Education,
Chennai - 600 006.



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4.The Chief Educational Officer
Dindigul District.

5.The Chief Educational Officer
Virudhunagar District.

.. Respondents in both writ petitions

PRAYER in W.P.(MD)No.736 of 2023 : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, forbearing the fourth respondent from relieving the petitioner from Nilakottai Union in Dindigul District till the outcome of the Writ Petition in W.P.(MD) No. 23230/2022.

PRAYER in W.P.(MD) No.23230 of 2022 : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records relate to the order of the third respondent made in Na.Ka.No.28688/11/2022, dated 28.09.2022 and quash the same as illegal and consequence to direct him to prepare the District wise seniority list and to transfer the junior most B.E.O to the needy union in the same District or any other District.



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In both writ petitions

For Petitioner : Mr.R.Suriyanarayanan

For Respondents : Mr.R.Baskaran
Additional Advocate General
assisted by
Mr.J.Ashok
Additional Government Pleader

COMMON ORDER

Since the issue arises in both the writ petitions are one and the same, accordingly these writ petitions are taken up together and disposed of by this common order.

2. The case of the petitioner is that the petitioner has directly selected as Assistant Elementary Educational Officer by the Teachers Recruitment Board and then posted for Administrative training under the Assistant Elementary Educational Officer, Uthamapalayam, vide third respondent proceedings, dated 03.12.2009 and worked therein for three



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months as a trainee Assistant Elementary Educational Officer. During March 2010, she has been posted as Assistant Elementary Educational Officer in Acharapakkam Union in Kancheepuram District. After three years, during May 2013, she got transferred to Cumbum Union in Theni District. In the year 2016, she has transferred to Batlagundu Union in Dindigul District, by attending the general counselling. While-so, in the year 2018, the post of Assistant Elementary Educational Officer is renamed as Block Educational Officer (BEO) and then transferred to Nilakottai Union on 29.12.2021 and working there till today. While-so, the first respondent issued a G.O.Ms.151 School Education (SE1(1)) Department, dated 09.09.2022 with an object to restructure the administrative set up of the Department and accord sanction for creation of few posts in lieu of surrender of certain posts. Accordingly, 15 new Block Educational Officer posts have been created as per this Government Order, the second respondent is required to surrender the post of 20 graduate teachers / Deputy Inspector of School as identified in Annexure No.1 of the above said Government Order for the post of newly created 15 Block Educational Officers. In pursuant to the same, the third respondent vide proceedings,



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dated 23.09.2022 identified and surrendered 47 Block Educational Officers in various Districts of Tamil Nadu, in which, Nilakottai Union in Dindigul District, in which, the petitioner was shown as Serial No.13. The said surrender post of Block Educational Officer instead of surrendering 20 graduate Teachers / Deputy Inspector of School, is contrary to the above said Government Order. On apprehension that since the petitioner's post was surrendered she might have been transferred, the petitioner made a representation on 26.09.2022 and requested him to transfer the junior most persons in anyone of the Unions in Dindigul District, which has 16 Unions, having 32 Block Educational Officers. However, the petitioner being a senior most person in the list transferred to Srivilliputhur Union in Virudhunagar District, has transferred on 28.09.2022 on administrative reasons. Challenging the said transfer order, the petitioner filed a writ petition before this Court in W.P.(MD) No.23230 of 2022. However, this Court granted interim stay on 01.10.2022 and when the writ petition is pending, the respondents have taken effective steps contrary to the interim order and they decided to relieve the petitioner from the Nilakottai Union in Dindigul District and effected transfer to the Virudhunagar District, thereby,



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another writ petition is filed for a Mandamus forbearing the fourth respondent from relieving the petitioner from the Nilakottai Union in Dindigul District in W.P(MD) No.736 of 2023.

3. The learned counsel appearing for the petitioner submitted that admittedly the Block Educational Officers have a State-wide seniority and not a Union wide seniority and the petitioner has served in all over Tamil Nadu on administrative grounds. However, in the present case, there are junior most persons available in Dindigul District, instead of transferring the junior most persons, transferring the senior most persons in the other District, is not sustainable one. With a malafide intention, the respondents have passed the transfer order, which liable to be interfered with. When the interim order was in force, the fourth respondent decided to relieve the petitioner from the Nilakottai Union in Dindigul District, hence, both the writ petitions have necessarily to be allowed in favour of the petitioner. Accordingly, he prayed for allowing these writ petitions.



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4. The learned Additional Advocate General assisted by the learned Additional Government Pleader appearing for the respondents submitted that according to G.O.(Ms)No.151 School Education (SE1 (1)) Department, dated 09.09.2022, only 15 additional new Block Educational Officer posts were created by surrendering the post of 20 graduate teachers / Deputy Inspector of School not Block Educational Officer post. Moreover, a rationalization of number of Schools per Block Educational Officer has been made. 40 to 50 Schools per Block Educational Officer have been ordered in the Government Order.

5. It is further submitted that vide order, dated 23.09.2022, Nilakottai Union Block Educational Officer post was relocated to Krishnagiri Union as per the need basis on the number of Schools in that Union. Similarly, 47 Block Educational Officer's post are relocated to various other unions based on the number of schools. Initially, the petitioner was transferred to Avinasi vide order dated 26.09.2022 and then the petitioner made representation to the Directorate and based on her request the petitioner transferred to Srivilliputhur Union in Virudhunagar



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District vide order, dated 28.09.2022. Again the petitioner made a further representation over phone to transfer her to another nearby Union. Based on the petitioner's representation, the above order was cancelled and issued another order, dated 28.09.2022 transferring the petitioner to Kariyapatti Union in Virudhunagar District. It is further submitted that vide another order, dated 30.09.2022, it was clearly stated that in the orders, those Block Educational Officer's who were transferred to any particular District for administrative reasons, will be given priority, if there is any vacancy arises in future in that particular District based on the date of appointment to that post. Hence, he prayed for dismissal of these writ petitions.

6. Heard the learned counsel on either side and perused the materials available on record.

7. The facts in the present case are not in dispute. Admittedly, the petitioner working as Block Educational Officer and the seniority of the petitioner is State-wide. It is also an undisputed fact that the transfer of the petitioner all over the Tamil Nadu State, since the petitioner is in State-wide



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seniority list. It is also an admitted fact that initially the petitioner had entered into service through Teachers Recruitment Board as Assistant Elementary Educational Officer in the year 2009 and worked as Block Educational Officer in Theni District, Dindigul District, Kancheepuram District and other Districts. The present transfer order is passed transferring the petitioner from Nilakottai Union in Dindigul District to Srivilliputhur Union in Virudhunagar District. However, the present transfer order was passed since there are 47 Block Educational Officer post found excess and the excess posts were identified through G.O.(Ms)No.151 School Education (SE1 (1)) Department, dated 09.09.2022, in order to accommodate the excess post the petitioner was initially transferred to Krishnagiri and thereafter, on her request again transferred to Avinashi and thereafter, considering the request of the petitioner again transferred to Srivilliputhur in Virudhunagar District and again on her request, she transferred to Kariapatti in Virudhunagar District. However, the present writ petition in W.P.(MD) No.23230 of 2022 is filed challenging the transfer order to Srivilliputhur in Virudhunagar District and there is no challenge with regard to the further transfer of petitioner to Kariapatti Union in Virudhunagar



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District. Further, the above said transfer is only on administrative grounds, which cannot be interfered with and hence, the prayer sought for in these writ petitions cannot be granted.

8. Accordingly, these writ petitions are dismissed. However, the petitioner is directed to join in the transferred place within a period of two weeks from the date of receipt of a copy of this order. After joining, further liberty is granted to the petitioner to make a fresh representation for re-transfer in the convenient place. If such representation is received, the respondents are directed to consider the same and pass appropriate order on merits and in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

24.01.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
RM



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To
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M.DHANDAPANI,J.

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