



W.P.(MD)No.2034 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:13.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.2034 of 2023
and
W.M.P(MD)No.1815 of 2023

R.Baskar

... Petitioner

Vs.

1.The Joint Director,
School Education Department,
DPI Complex, College Road,
Chennai – 600006.

2.The Chief Educational Officer,
Thanjavur District,
Thanjavur.

3.The Headmaster(i/c),
Government High School,
Sivaviduthi,
Thanjavur District.

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records on the file of the first respondent in connection with the impugned order of transfer passed by him in his proceedings in Na.Ka.No.



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079009/C2/E1/2022, dated 19.01.2023 and subsequently, relieving letter issued by the third respondent in Na.Ka.No.139/2023 dated 27.01.2023 and quash both as illegal, arbitrary and passed with an malafide intention and consequently direct him to retain the petitioner in the third respondent school as BT Assistant (Physics) within the time limit that may be stipulated by this Hon'ble Court.

For Petitioner	: Mr.G.Thalaimutharasu for Mr..SP.Veerapandi
For Respondents	: Mr.S.Saji Bino, Special Government Pleader

ORDER

This writ petition has been filed to quash the impugned order of transfer passed by the first respondent in his proceedings in Na.Ka.No.079009/C2/E1/2022, dated 19.01.2023 and the consequent relieving letter issued by the third respondent in Na.Ka.No.139/2023 dated 27.01.2023 as illegal, arbitrary and passed with an malafide intention and consequently, to direct third respondent to retain the petitioner in the third respondent school as BT Assistant (Physics) within the time limit that may be stipulated by this Hon'ble Court.



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2. The case of the petitioner is that the petitioner completed his B.Sc., (Physics) degree in the year 2003 and B.Ed., (Physics) in the year 2004 and thereafter, successfully completed the Teachers Recruitment Board's Examination and was appointed as BT Assistant(Physics) in Panchayat Union Middle School, Kariyaviduthi on 08.05.2005 on consolidated pay. Subsequently, his service has been regularised on 01.06.2006. Thereafter, he was transferred to Panchayat Union School, Sivaviduthi on 13.06.2008. While being so, to the shock surprise of the petitioner, the first respondent transferred him to Government Boys Higher Secondary School, Soolagiri, Krishnagiri District vide order dated 19.01.2023. Pursuant to the same, the third respondent also issued a relieving order, dated 27.01.2023. Hence, challenging the same, the petitioner has filed this present writ petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that no transfer can be made on administrative reasons by levelling charges against the employee. However, a perusal of the impugned transfer order clearly shows that the transfer is punitive in nature on the



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allegation that the petitioner has disturbed the smooth functioning of the school, which is not sustainable one.

4. The learned counsel appearing for the petitioner would further submit that instead of effecting the transfer order, the respondents may initiate Departmental Proceedings against the petitioner in respect of the allegation made in the impugned transfer order and the petitioner is ready to face the department proceedings and he has also filed an undertaking affidavit, dated 02.02.2023 before this Court and hence, prays for appropriate orders.

5. The learned Special Government Pleader appearing for the respondents would submit that since the petitioner himself filed an undertaking affidavit stating that he is ready to face the Departmental Proceedings to be initiated by the respondents, this Court may set aside the impugned transfer order and may grant liberty to the respondents to take disciplinary action against the petitioner for the lapses committed by him.



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6. In view of the fair submission made by the learned Special Government Pleader appearing for the respondents, the impugned order of transfer passed by the first respondent in his proceedings in Na.Ka.No. 079009/C2/E1/2022, dated 19.01.2023 and the consequent relieving letter issued by the third respondent in Na.Ka.No.139/2023 dated 27.01.2023, are set aside, as the impugned order of transfer is punitive in nature. However, the respondents are at liberty to take disciplinary action against the petitioner for the lapses committed by him during his employment.

7. This writ petition is allowed in the above terms. No Costs. Consequently, connected Miscellaneous Petition is closed.

13.02.2023

pm
NCC:Yes/No
Index:Yes/No



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To

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M.DHANDAPANI,J.



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