



W.P.(MD)No.11160 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.11160 of 2020

and

W.M.P.(MD)No.9751 of 2020

P.Kandhan

: Petitioner

Vs.

1.The Joint Director (Personnel) of School Education,
Directorate of School Education,
DPI Complex,
College Road,
Chennai - 6.

2.The Chief Educational Officer
District Education Office,
Dindigul - 620 003.

3.The District Educational Officer,
Vedasanthur,
Dindigul District.

4.The Head Master
Government High School,
Thangammapatty,
Dindigul District.

: Respondents



W.P.(MD)No.11160 of 2020

WEB COPY

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondent to re-assign the post of Deputy Inspector in the present vacancy in any of the District Education Office by considering the petitioner's representations, Dated 16.03.2020, 21.03.2020, 10.06.2020, 07.07.2020 and 28.07.2020.

For Petitioner : Mr.J.Thomas Rajadurai

For Respondents : Mr.S.Saji Bino,
Special Government Pleader

ORDER

This writ petition has been filed to direct the respondents to re-assign the post of Deputy Inspector in the present vacancy in any of the District Education Office by considering the petitioner's representations, Dated 16.03.2020, 21.03.2020, 10.06.2020, 07.07.2020 and 28.07.2020.

2. The learned counsel for the petitioner submitted that the petitioner is working as a B.T. Assistant (English) in the Government High



W.P.(MD)No.11160 of 2020

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School, Thanagammampatty, Dindigul District and currently working on deputation at Government Higher Secondary School, Chatrapati, Palani District and subsequently, there was a matrimonial dispute in between the petitioner and his wife, for which, the petitioner filed a petition in H.M.O.P.No.28 of 2019 for divorce and similarly, the petitioner's wife also filed a criminal complaint as against the petitioner in Crime No.14 of 2019, for the offence under Section 498(A) IPC. While so, in the above said case, the petitioner was arrested on 25.07.2009 by the Law Enforcing Agency and remanded to Judicial custody and in the mean time, the second respondent without applying his mind, had mechanically passed the order of suspension against the petitioner on 30.07.2019. Challenging the same, the petitioner filed a writ petition before this Court in W.P.(MD)No.18652 of 2019 and this Court allowed the writ petition, thereby, suspension order was quashed and the said order was also communicated as early as 30.07.2000 itself.

3. Due to the consideration, since the petitioner passed the departmental examination and he is a eligible candidate and the first respondent herein passed an order, dated 04.09.2019 transferring the



W.P.(MD)No.11160 of 2020

petitioner from the original post as Deputy Inspector, District Education Officer, Vedasanthur, Dindigul District and the same was communicated to the petitioner on 13.09.2015. After receiving the same, the petitioner approached the second respondent, however, the second respondent refused to accept the first respondent's order, though the first respondent is the Higher Authority to the second respondent. Hence, the petitioner sent a detailed representation to the second respondent on 16.09.2019 by marking a copy to the respondents 3 and 4. However, no order was passed. Hence, the petitioner filed another writ petition before this Court in W.P.(MD) No. 20691 of 2019, this Court by its order, dated 28.02.2020, issued a direction to the respondent to consider and pass orders. Pursuant to which, the first respondent passed an order, dated 20.09.2019 thereby, cancelling the original order, dated 04.09.2019. Hence, the petitioner filed the present writ petition for a Mandamus to direct the respondent to reassign the post of Deputy Director in the present vacancy in any of the District Educational Office by considering the petitioner's representation, dated 06.03.2020.



W.P.(MD)No.11160 of 2020

WEB COPY

4. The learned counsel for the petitioner would submit that this Court may issue a direction to the respondents to consider the petitioner's representation and pass appropriate orders on merits and in accordance with law within a time limit.

5. The learned Government Pleader submitted that already the first respondent passed an order, dated 20.09.2019 cancelling his earlier order, dated 04.09.2019 refusing to transfer the petitioner from the Original post of Deputy Inspector and without challenging the said order, the present writ petition is filed, is not sustainable one, however, the representation of the petitioner will be considered in the manner known to law.

6. Considering the facts and circumstances of the case, though the petitioner is not challenging the earlier order, dated 20.09.2019, however, the petitioner has made representation dated 28.07.2020 to consider his request and pass appropriate order.



W.P.(MD)No.11160 of 2020

WEB COPY

7. Considering the limited request made by the petitioner, the first respondent is directed to consider the petitioner's representation dated 28.07.2020 and pass appropriate orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

8. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

03.01.2023

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



W.P.(MD)No.11160 of 2020

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W.P.(MD)No.11160 of 2020

M.DHANDAPANI, J.

RM

W.P.(MD)No.11160 of 2020

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