



W.P.(MD).No.9339 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.03.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.9339 of 2019

and

W.M.P.(MD).No.7349 of 2019

P.Rangavathi

... Petitioner

Vs.

- 1.The Chief Educational Officer,
O/o. the Chief Educational Office,
Nagercoil,
Kanyakumari District – 01.
- 2.The District Educational Officer,
O/o. the District Educational Officer,
Nagercoil,
Kanyakumari District – 01.
- 3.The District Educational Officer,
O/o. the District Educational Officer,
Melur,
Madurai District.
- 4.The Block Educational Officer,
O/o. the Block Educational Officer,
Kottampatti, Melur Taluk,
Madurai District.
- 5.The Block Educational Officer,
O/o. the Block Educational Officer,
Nagercoil,
Kanyakumari District – 01.



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6.The Headmaster,
The Government Primary School,
Shenbagaramanpudur,
Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.114/Aa/2019 dated 12.04.2019 on the file of the fifth respondent and quash the same as illegal and consequently directing the respondents to permit the petitioner to continue her service as Secondary Grade Teacher at the sixth respondent School viz., the Government Primary School, Shengaramanpudur, Kanyakumari District and provide salary till her retirement in light of the order in W.P.(MD).No.780 of 2019 dated 01.02.2019 passed by this Court.

For Petitioner : Mr.R.Murugan

For Respondents : Mr.M.Ramesh,
Government Advocate.

ORDER

This Writ Petition is filed challenging the transfer order and consequently direct the respondents to permit the petitioner to continue her service as Secondary Grade Teacher in Kanyakumari District in light of the order in W.P.(MD).No.780 of 2019 dated 01.02.2019.



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2. The petitioner was appointed as Secondary Grade Teacher in the Panchayat Union Primary School, Vellimalaipatti, Kottampatti Union, Madurai District on 18.10.2004 and was continued in the said service for the past 14 years. The petitioner is resident of Kanyakumari District and her husband was working as Conductor in Nagercoil. The petitioner is having two children aged about 20 and 22 years, who are living in Kanyakumari District. The petitioner is a pneumonia patient and was undergoing treatment. Since the petitioner is staying away from Kanyakumari District which is more than 350 Kms away from her family, she opted for transfer in the transfer counselling to her native place from Madurai to Kanyakumari District under the category of spouse priority category and also based on her ailments. However, she was not successful in the transfer counselling. Thereafter, the petitioner filed W.P.(MD) No.780 of 2019 directing the respondents to post in any one of the vacancies which are available in the Kanyakumari District. According to the petitioner, there are 16 vacancies, but the respondents are not showing the same in the transfer counselling. In the Writ Petition W.P.(MD)No.780 of 2019, the Hon'ble Division Bench vide order dated 01.02.2019 has held as under:

“12. The petitioner is now given transfer, taking into account her 14 years of service at Madurai away from her family. Similarly, the treatment, which she is undergoing now, is also taken as a reason for transfer. Such transfers are permitted even in the Government Order issued during



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the last year; in respect of which, a public interest litigation is now pending before us. Since so many factors including the medical condition of the petitioner are taken note of by the respondents for her transfer, this order would not be a precedent.

13. We are informed that the petitioner is having only five years of service. The petitioner served 14 years at Madurai. She is now transferred to her native place after 14 years of work. Since the petitioner is having 5 more years service, we direct the respondents to permit her to work at Shenbagaramanpudur Government Primary School, Kanyakumari District, till her retirement. The petitioner shall not be re-transferred to any other institution till the date of her retirement, in view of the background facts”.

The Hon'ble Division Bench has directed the respondents to allow the petitioner to continue her service in the Kanyakumari District till her retirement, since the petitioner is having only 5 years of service.

3. When the present Writ Petition was taken up for hearing, it is stated that the petitioner is having service until 30.06.2026, which means she had 7 years of service, but it was mentioned before the Hon'ble Division Bench that she has 5 years of service. However, the petitioner has completed in Kanyakumari District based on the order passed by the Hon'ble Division Bench until today. As of now, she is having 3 more years to complete her service.



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4. The learned Additional Government Pleader submitted that the petitioner was granted only deputation order which means that the petitioner is still in Madurai. Therefore, the petitioner is bound to report to duty every year in Madurai District so that her salary shall be disbursed from Madurai District, but the petitioner has refused to report yearly once at Madurai. Hence, the learned Additional Government Pleader submitted that the deputation order may be cancelled. Moreover, the deputation order was passed for only one year and it cannot be taken as transfer and every year new deputation order ought to be passed.

5. After hearing the rival submission, this Court is of the considered opinion that due to the ailments of the petitioner and based on the order of the Hon'ble Division Bench, the petitioner ought to be allowed to continue in Kanyakumari District itself. Since there are no vacancies in order to accommodate the petitioner through transfer order, as a special case, a deputation order is passed and the petitioner is allowed to continue in the Kanyakumari District itself. The petitioner would attain superannuation on 30.06.2026. Therefore, the respondents shall allow her to continue in the Kanyakumari District until 30.06.2026 as stated in the Division Bench order. The petitioner shall report at Madurai either in the month of April or in the



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month of May every year at her own choice, so that the formalities of lien shall be completed at Madurai. Until her superannuation, the respondents shall not disturb the petitioner and the respondents are directed to allow the petitioner to complete her service at Kanyakumari District. The impugned order is only a deputation order and based on the above condition, the deputation order is sustained.

6. In view of the above, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr



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S.SRIMATHY, J.

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