



W.P(MD)No.14504 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 28.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.14504 of 2023

and

W.M.P.(MD)Nos.12296 and 12298 of 2023

M.Dhinesean

... Petitioner

Vs.

1.The Additional Chief Secretary to Government /
Backward, Most Backward Class Welfare Department,
Chennai District – 5.

2.The Commissioner of Backward, Most Backward and
Denotify Tribes and Welfare Department,
Chennai District – 5.

3.The Joint Director,
Kallar Reclamation,
Madurai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records pertaining to the impugned order of the 3rd respondent in Na.Ka.H.10/ 38291/2023-5 dated 12.06.2023 and quash the same.



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For Petitioner : Mr.B.Saravanan, Senior Counsel,
For Mr.S.Ramsundarvijayraj

For Respondents : Mr.R.Baskaran,
Addl. Advocate General,
Assisted by Mr.G.Suriyananth,
Addl. Government Pleader.

ORDER

Heard the learned senior counsel for the writ petitioner and the learned Additional Advocate General assisted by the learned Additional Government Pleader for the respondents.

2.By the impugned order dated 12.06.2023, the petitioner has been transferred from the post of Warden, Government Kallar Hostel, Sanarpatti, Dindigul District and posted as Secondary Grade Teacher, Government Kallar Middle School, Kallothu, Madurai District. It is well settled that transfer is an incident of service. The learned senior counsel would add that the impugned order has been issued pursuant to G.O.(P)No.49, Backward Class, Most Backward Class and Minorities Welfare Department, dated 30.05.2023 and that since this Court had set



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aside Paragraph No.4(ii), (v) and (vi) of the said government order, the impugned transfer order has to go.

3.I am not in a position to accept the said contention. It is true that Paragraph No.4(ii), (v) and (vi) of the aforesaid government order has been quashed by me. But the power of transfer is not traceable to government order. The Government has independent power to transfer. The Special Rules themselves provide that the post of Warden and the post of Tutor are interchangeable. The said principle of interchangeability has been applied by the third respondent in this case. Hence, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

28.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

ias

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28.06.2023
(3/3)