



W.P.(MD)No.13545 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.13545 of 2018

and

W.M.P.(MD).No.12339 of 2018

P.Poopandi

... Petitioner

Vs.

- 1.The Joint Director of School Education,
O/o.Joint Director of School Education,
College Road,
Chennai 600 006.
- 2.The Chief Educational Officer,
Tuticorin District,
Tuticorin.
- 3.The Headmaster,
V.O.C. Government Higher Secondary School,
Kovilpatti,
Tuticorin District.
- 4.Angayar Selvalakshmi

... Respondents



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PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the second respondent in his proceedings in Na.Ka.No.3619/A1/2017, dated 19.06.2018 and quash the same.

For Petitioner : Mr.C.Mayilvahan Rajendran
For R1 to R3 : Mr.T.Amjad Khan
Government Advocate
For R4 : Mr.A.Jeyaramachandran

ORDER

This writ petition has been filed challenging the impugned order passed by the second respondent dated 19.06.2018 and to quash the same.

2. The case of the petitioner is that he was appointed as B.T.Assistant (English) in the third respondent School in the year 2012 and after completion of probationary period, his service was regularised. Pursuant to the direction given by the first respondent, the second respondent prepared a surplus list in Tuticorin District and the second



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respondent directed the third respondent to send a surplus teacher list. Pursuant to the list sent by the third respondent, the second respondent by his communication dated 18.06.2018, sent a surplus teacher list to the third respondent, in which the petitioner name did not find and one Mrs.Dhanalakshmi, who is also working as B.T.Assistant (English) in the third respondent School, name found as Sl. No.21. On the same day, sent another communication in which the petitioner's name was included in the surplus teacher list and his name was found as Sl. No.28. Thereafter, the second respondent has passed the impugned order dated 19.06.2018, transferring the petitioner to the Government Higher Secondary School, Kommadikottai, Tuticorin District. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that admittedly the name of one Mrs.Dhanalakshmi, who is junior to the petitioner was included in the surplus teacher list as Sl.No.21. However, subsequently her name was deleted and the name of the petitioner was included, which is not sustainable one. Hence, he prayed for appropriate



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orders.

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4. The learned Government Advocate appearing for the respondents 1 to 3 would submit that the petitioner was appointed as B.T.Assistant in the third respondent School in the year 2012. The teaching posts are fixed to a school on the basis of number of pupils enrolled in the school. Therefore, admissible post to a school would vary every year. In this process, surplus teachers should be transferred to the schools where eligible vacancies exist and no such vacancy, such surplus teachers should be transferred along with their post. The name of one Tmt.Dhanalakshmi was deleted in the list of surplus teachers, since she is senior to the petitioner, by virtue of her date of birth. The fourth respondent was not working in the same school with the petitioner. The petitioner has not proved that he is not surplus. The transfer order dated 19.06.2018, was issued by the second respondent at the time of counseling, transferring the petitioner from the third respondent School to Government Higher Secondary School, Kommadikottai. Therefore, this writ petition is liable to be dismissed.



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5. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents 1 to 3.

6. The facts in the present case are not in dispute. Admittedly, the petitioner was entered into service in the third respondent School as B.T.Assistant (English) in the year 2012 and his service was regularised. Subsequently, one surplus teacher was identified in the third respondent School in which one Mrs.Dhanalakshmi name was included as Sl. No.21. Thereafter, her name was deleted and the name of the petitioner was included in the list of surplus teachers and transferred from the third respondent School to Government Higher Secondary School, Kommadikottai, Tuticorin District, on the ground that earlier inadvertently the name of one Mrs.Dhanalakshmi was noted in the surplus list. Thereafter, they came to know that by virtue of her date of birth, she is senior to the petitioner and the petitioner is junior, according to her date of birth. Hence, the name of the petitioner was included as Sl.No.28 in the list of surplus teachers and thereafter, the present impugned order has been passed. Since



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the petitioner is junior most teacher in the third respondent School, rightly the surplus teacher post was fixed and the transfer order was passed. Hence, this Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

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NCC: Yes/No
Index : Yes / No
Speaking Order : Yes / No

akv

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M.DHANDAPANI,J.

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