



W.P.(MD).No.20093 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.20093 of 2023

and

W.M.P(MD)Nos.16565 & 18498 of 2023

R.Revathi

... Petitioner

Vs.

- 1.The Director of Elementary Education,
DPI Campus,
Nungampakkam,
Chennai-34.
- 2.The Chief Educational Officer,
(Virudhunagar Educational District),
Virudhunagar District.
- 3.The District Educational Officer,
(Elementary Education),
(Virudhunagar Educational District),
Virudhunagar District.
- 4.The District Educational Officer,
(Elementary Education),
Sivakasi Educational District,
Virudhunagar District.
- 5.The Block Educational Officer,
Tiruchuli Union,
Virudhunagar District.



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6. The Block Educational Officer,
Vembakottai Union,
Virudhunagar District.

7.K.Sankareswari

... Respondents

*(R7 is impleaded vide Court order, dated 12.09.2023
in W.M.P(MD)No.18457 of 2023)*

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, directing the respondents to transfer and post at either one of these school i.e., Kodhai Nachiyarpuram Middle School, Alamelumangapuram Primary School at Vembakottai Union, Virudhunagar District as Secondary Grade Teacher based on the representations, dated 23.06.2023 and 21.07.2023 within time frame that may be stipulated by this Court.

For Petitioner : Mr.B.Jeyakumar

For R1 – R6 : Mr.N.Ramesh Arumugam
Government Advocate

For R7 : Mr.D.Balamuruga Pandi

ORDER

The present writ petition has been filed to seeking direction to the respondents to transfer and post at either one of these school i.e., Kodhai



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Nachiyarpuram Middle School, Alamelumangapuram Primary School at Vembakottai Union, Virudhunagar District as Secondary Grade Teacher based on the representations, dated 23.06.2023 and 21.07.2023 within time frame that may be stipulated by this Court.

2. The petitioner was appointed as Secondary Grade Teacher on 18.12.2009 at Panchayat Union Primary School, K.K.Nagar, Ramanathapuram Union. Thereafter, the 1st respondent transferred her from Ramanathapuram Union to Vembakottai Union and she was posted at Panchayat Union Primary School at Kananjampatti on 27.01.2014. Since then, the petitioner is working in Panchayat Union Primary School, Kananjampatti. Since the strength of the students declined gradually, few teachers including the petitioner were declared as surplus in the Panchayat Union Primary School, Kananjampatti and as a result of which, the respondent transferred the petitioner from Vembakottai Union to Tiruchuli Union by an order, dated 24.02.2022 and posted her as Panchayat Union Middle School, Pothampatti. G.O(1D) No.217, dated 20.06.2019 (School Education Department) in clause 1 (iii) mandates that the seniority of the deployed teacher would continue in the parent Union and they ought to be redeployed to the very same Union whenever vacancy arise.



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3. In view of the same, it is pertinent to mention here that the petitioner's seniority would continue in the Vembakottai Union and whenever vacancy arises at Vembakottai Union, the petitioner has to be redeployed to the very same Union, since the order of transfer came to be passed on the ground of surplus in the parent union of the petitioner at Vembakottai. After the petitioner's transfer to Tiruchuli Union, 4 vacancies arose in Vembakottai Union in Panchayat Union Primary School at Melaottampatti, Panchayat Union Primary School at K.Madathupatti, Panchayat Union Middle School at Duraisampuram and Panchayat Union Primary School, Vembakottai. However, the respondents filled all the 4 vacancies through counselling teacher who sought transfer from other District violating the mandates of G.O(1D) No. 217, dated 20.06.2019 (School Education Department) without redeploying the teacher. Similarly, the impleaded 7th respondent also hails in the similar line when she originally joined service on 03.03.2008 at Panchayat Union Middle School, Kelaparaikulam, Tiruchuli Taluk, Virudhunagar District and thereafter transferred to Panchayat Union Primary School, Vijayakaraisalkulam, Vembakottai Block. Thereafter, the 7th respondent was transferred to Peranayakkanpatti at Vembakottai Union, wherein she worked up to 24.02.2022. Since the strength of the students declined, the 7th respondent was



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declared one among the other teachers as surplus and was transferred from Vembakkottai Union to Tiruchuli Union on 24.02.2022 to the Panchayat Union Primary School, Pulangal. It is seeking to mention here that the seniority of the 7th respondent would be continued in Vembakottai Union and she ought to be redeployed to the same Union after vacancy arises. The learned counsel for the 7th respondent drew my attention to the fact that she is senior to the petitioner herein. Hence, it could be understood that the respondents despite 4 vacancies which arose in the parent Union of the petitioner as well as the 7th respondent, had accommodated teachers from other District without deploying the petitioner and the 7th respondent.

4. In the meanwhile, the strength of the students have increased in Kodhai Nachiyarpuram Middle School, Alamelumangapuram Primary School at Vembakottai Union, as a result of which 2 vacancies have arose. Hence, the petitioner made a representation on 23.06.2023 requesting the 2nd and 3rd respondents to transfer him by redeployment back to Vembakottai Union in terms of G.O(1D) No.217, dated 20.06.2019 (School Education Department). The same was not considered and hence, this writ petition came to be filed.



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5. However, the learned Government Advocate has filed a vacate *status quo* petition and has also filed counter affidavit and categorically submitted that the petitioner and the 7th respondent are bound by the transfer orders issued by the competent authorities and they have to work wherever they are transferred in terms of Section 48 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016. This issue is no more *res integra* and has already been dealt with by this Court in W.P.No.20956 of 2019 etc., batch and the relevant portion of which is extracted as follows:

“7. According to the petitioners, they have been deployed as being surplus teachers from their respective unions to other unions and while resorting to the deployment, the respondents have not following the original seniority, but they followed only station seniority, which procedure is contrary to the present G.O. (1D) No.217 dated 20.06.2019. Therefore, the petitioners now made a limited request to direct the respondents to implement the G.O.Ms.217 particularly, the norms mentioned in paragraph No.4 within reasonable time. Considering the limited request made by the petitioners, I am inclined to issue a direction to the respondents are as follows:

- *The respective Education Authorities i.e. The Directorates of Elementary and School Education are directed to implement the G.O.Ms. No.217 particularly, the norms mentioned in paragraph No. 2 (i) & (ii), 3 (i) & (ii) and 4 (i) to (iv);*
- *The Directorates of Elementary and School Education are directed to identify the need posts in the respective unions and in respect of the sanctioned posts by the Government and thereafter the said need posts have to be filled with by the teachers who were transferred from*



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parent union to another union and give priority based on their original seniority.

The said exercise should be completed within a period of six weeks from the date of receipt of copy of this order.”

6. I am fully in consonance with the order passed by this Court in the aforesaid case and appreciating the submission of the learned Government Advocate's submission that whenever a vacancy position arise, the petitioner's request would be considered on the basis of seniority, this Court is inclined to issue the following directions to the respondents:

The respective educational authorities i.e., Directorate of Elementary School Education are directed to implement G.O(1D) No.217, dated 20.06.2019 (School Education Department), particularly the norms mentioned in Paragraph Nos.1, 2, 3(i & ii) 4(I-III). The Directorate of Elementary Education is directed to identify the needy post in the Vembakottai Union and in respect of the sanctioned post by the Government and thereafter, the said needy post have to be filled by the teachers transferred by deployment from the parent Union to other Union and especially, the petitioner and the 7th respondent have to be filled at the first instance in whatever vacancy arises in Vembakottai Union, giving priority on the basis of the original seniority in view of the fact that already 2 vacancies have arisen in Kodhai Nachiyarpuram Middle School,



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Alamelumangapuram Primary School at Vembakottai Union. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

8. Accordingly, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

12.09.2023

NCC : No
Index : No
Internet : No
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L.VICTORIA GOWRI, J.

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