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W.P.No.4881 of 2022 etc.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.4881, 4884, 4889, 4891, 4892, 4897 of 2022

and

W.M.P.Nos.5003, 5004, 5008, 5010, 5021, 5022, 5023, 5024, 5026,
5028, 5038, 5041 of 2022

W.P.No.4881 of 2022 :-

R.Manoharan

... Petitioner

Vs

1. The Government of Tamil Nadu,
Rep. by its Principal Secretary to
Government (School Education),
Fort St. George, Chennai – 9.
2. The Commissioner of School Education,
DPI Campus, College Road,
Nungampakkam, Chennai – 6.
3. The Joint Director (Personal),
Department of School Education,
DPI Campus, College Road,
Nungampakkam, Chennai – 6.
4. The Additional Chief Education Officer,
Namakkal, Namakkal District.
5. The Chief Educational Officer,
Pudukottai, Erode District.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to impugned clause 4 (1) (M), (C), (V), and Clause 4 (III) (ix) G.O. (1d) No.134 School Education (Pa. Ka.5) (1) Department dated 18.08.2021 of the first respondent herein, the impugned seniority list dated 18.10.2021 of the third respondent, in respect of the petitioner alone and the consequential impugned sanctioned vacancy list published in online on 20.10.2021 of the third respondent herein and the impugned order in Na. Ka. No. 41779/C4/E1/2021 dated 21.10.2021 of the third respondent herein and impugned reliving order in Na. Ka. No.638/m2/xgf/2021 dated 21.10.2021 of the fourth respondent herein and quash the same and consequently direct the respondents herein to conduct fresh counseling for the BRTEs by implementing the order dated 24.11.2021 in W.P.(MD)No.16884 of 2021 the Honble Madurai Bench of this Honble Court or to accommodate the petitioner in any one of the vacancies in Namakkal District

In all W.Ps.

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mrs.S.Mythreye Chandru
Special Government Pleader

COMMON ORDER

These writ petitions have been filed challenging the order passed by the Joint Director (Personal), Chennai, thereby relieving the petitioners from their respective posts and consequential order passed by



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the Chief Educational Officer of the concerned district, thereby transferred and posted them in their respective posts in respective schools.

2. All the petitioners were originally appointed as Block Resource Teacher Educator (hereinafter called as "BRTE") through Teachers Recruitment Board. The post of BRTE was created under Sarva Shiksha Abiyan Scheme. The Government approved the recruitment of BRTE for the year 2002-2003 by Government Order in G.O.Ms.No.16, School Education (Q2) Department dated 05.02.2002. As per G.O.Ms.No.94, School Education Department dated 01.07.2002, 6285 posts of BRTE were sanctioned and by virtue of G.O.Ms.No.52, School Education (C2) Department dated 30.03.2006, the General and Special Rules applicable to the post of B.T.Assistants shall also be made applicable to the post of BRTE. There was no recruitment in respect of BRTE after the year 2010.

3. While being so, the first respondent issued G.O.1D.No.134, School Education (Pa.Ka.5(1)) department dated 18.08.2021 thereby



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framed guidelines for the purpose of transfer counselling and by which under clause 4(I)(c) ordered that all the posts are treated to be vacant post and only on that basis the transfer counselling will be held. Accordingly, they were posted as B.T. Assistants from the post of BRTE on the basis of the seniority. Both the posts are interchangeable and carrying identical scale of pay. Therefore, the petitioners submitted representation questioning the deployment through the Government Order. However, that was not considered and as such the petitioners approached Madurai Bench of this Court in W.P.(MD).No.19294 of 2021 etc cases. All the writ petitions were dismissed by an order dated 24.11.2021. Some of the writ petitioners challenged the G.O.1D.No.134, School Education (Pa.Ka.5(1)) Department dated 18.08.2021.

4. In so far as the clause 4(I)(V) and clause 4(III)(Ix), it was quashed and all the writ petitions were allowed by the Madurai Bench of this Court and further, directed the respondents to pass appropriate posting orders. The same was challenged by way of batch of writ appeals filed before the Madurai Bench of this Court in W.A.(MD).No.2230 of 2021 etc., batch cases and this Court passed order dated 07.11.2023 and



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thereby held that the employee is liable to be transferred at any place and post. Post can never be claimed as status and the post is not the choice of the employees and they are expected to serve, wherever they are posted. The guidelines, transfer policies or concessions are extended for the benefit of the employees and in the interest of administration. The relevant portion of the said order is extracted hereunder:

"24.An employee is liable to be transferred at any place and post. Post can never be claimed as status and the post is not the choice of the employees and they are expected to serve, wherever they are posted. The guidelines, transfer policies or concessions are extended for the benefit of the employees and in the interest of administration. However, such guidelines would not confer an absolute right for an employee to seek a particular place or post. The guidelines are issued to minimize the discrepancies and therefore, such discrepancies even if noticed would not provide cause for the employees to assail the order of administrative transfers. When the employees have no right to challenge the order of transfer except on the limited grounds discussed by us in the aforementioned paragraphs, they cannot indirectly challenge the policy guidelines, which were issued for such transfers and therefore, the very basis for the challenge is untenable.

25. The interference by the High Court in the matter of administrative WEB (transfers would undoubtedly cause



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administrative inconvenience for the Government Departments to manage the departmental affairs. Therefore, the High Court is expected to exercise restraint in interfering with the administrative transfer orders and transfer guidelines issued in the form of transfer counselling or otherwise.

26.Number of Writ Petitions were filed challenging the constitutional validity of the transfer policy decisions and the guidelines issued by the Government. Thus, multiple intra-court Writ Appeals are filed. Since the transfer guidelines issued by the Government are upheld, the transfer orders issued consequent to the guidelines are to be validated. Therefore, the transfer orders issued pursuant to the transfer guidelines are upheld and to be implemented uniformly to all other teaching staff irrespective of the fact whether they have instituted separate Writ proceedings or Writ Appeals.

27. The learned Additional Advocate General made a submission that the Government Order was issued and concession was granted to 362 teachers working in the cadre of Block Resource Teacher Educators by considering their long services of about 7 years in a far of place and to redress their grievances. Such concession extended would not affect the service conditions of the other employees and therefore, the very cause set out in the Writ petitions are untenable."



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5. The above said order was also confirmed by the Hon'ble Supreme Court of India in SLP.No.27383-27384 of 2023 by an order dated 05.01.2024 by dismissing the SLP. In view of the above, this Court has no other option than to dismiss all the writ petitions. However, the petitioners, who are not joined in the transferred post, are all permitted to continue in their respective post and place till 28.08.2024 and thereafter **join in their** respective transferred place on or before 28.08.2024. The respondents are directed to consider the petitioner's transfer in future counselling by giving priority to the petitioners.

6. With the above directions, all the writ petitions are dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

16.07.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No

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G.K.ILANTHIRAIYAN. J.

rts

To

1. The Principal Secretary to
Government (School Education),
Government of Tamil Nadu,
Fort St. George, Chennai – 9.
2. The Commissioner of School Education,
DPI Campus, College Road,
Nungampakkam, Chennai – 6.
3. The Joint Director (Personal),
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