



W.P.No.4501 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2024

CORAM

THE HON'BLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P.No.4501 of 2023
and
WMP.Nos.45018 & 4519 of 2023

A.Mary Helen

... Petitioner

Vs.

1. The Director of Elementary Education,
College Road,
Chennai-600006.
2. The District Elementary Educational Officer,
The District Elementary Educational Office,
Namakkal.
3. The Block Educational Officer,
Block Educational Office,
Namakkal.
4. V. Menaka,
Secondary Grade Teacher,
Government Primary School,
Ammandivilai. Kolachel Union,
Kanyakumari District.
5. V. Johnsy Rani,
Secondary Grade Teacher,
Government Primary School,



W.P.No.4501 of 2023

Kandanvilai, Thuckalay Union,
Kanyakumari District.

... Respondents

WEB COPY

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for records relating to the order of the 1st respondent in Na.Ka.No.756/D1/2021 dated 09.12.2022 and in Na.Ka.No. 756/D1/2021 dated 03.01.2023, to quash the same and to consequently direct the first and second respondents to forthwith consider the claim of the petitioner for transfer as Secondary Grade Teacher to any one of the existing or next arising vacancy in and around Kanyakumari District on the basis of the seniority.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mrs.S.Mythery Chanam
Special Government Pleader(Edn.)

ORDER

This Writ Petition is filed calling for the records on the file of the respondents relating to the impugned orders dated 19.12.2022 and 03.01.2023 in and by which the request for transfer of respondents 4 and 5 was considered for transferring them to their native district of Kanniyakumari over and above the petitioner.



W.P.No.4501 of 2023

2. The case of the petitioner is that the respondents themselves published a seniority list with reference to the request seniority, and the petitioner's name finds a place in Sl. No. 15537, whereas the respondent No. 4 Serial No. was 11549 and the 5th respondent Serial No. was 15743. The respondents are effecting request transfers in an arbitrary manner without following the seniority published by them.

3. Even though the Writ Petition was filed with the prayer mentioned above when the matter came up for hearing today, Mr. L.Chandrakumar, the learned counsel for the petitioner, would submit that since Respondents 4 and 5 have joined the transfer posts in the years 2022 and 2023, there will be no point in now re-transferring them and accommodating the petitioner under the said vacancies. Instead, till date, the request of the petitioner remains unanswered, even though, as per the request seniority, the petitioner's request ought to have been considered even while considering the said respondents themselves.

4. Even though in matters of transfer and posting, the employees do not have a right and it is well within the domain of the employer, still with reference to transfer and posting, there are guidelines that are followed by the respondents themselves. As far as the request transfer is concerned, as per the



W.P.No.4501 of 2023

guidelines and rules, the respondents are supposed to maintain request seniority, and depending on the administrative exigencies, whenever vacancies are available and the transfer counseling is made to the extent possible, the requests have to be accommodated, but strictly as per the request seniority. For the reasons best known to the respondents, in this case, the rule of seniority seems to have been flouted with impunity. In view of the matter, even though normally this Court will not interfere with the matter of transfer and posting, in view of the illegality committed by the respondents, the petitioner would be entitled to relief. Only considering the efflux of the time, without quashing the entire transfer counselling, this Court restricts the prayer by granting relief to the petitioner alone.

5. In that view of the matter, the learned special government pleader was directed to ascertain whether there is any vacancy available at present in the Kanniyakumari District. When the matter was passed over and called again, the learned special government pleader reports that there is one vacancy available in GPS Eluppivilal, Colachal Block, Kanniyakumari District.

6. Before issuing final directions, this Court observes that in the field of health, i.e., nursing, and in the field of teaching, there are several candidates



W.P.No.4501 of 2023

from Kanniyakumari district who get selected, and after working in the other districts, they show a tendency to go back to their native place. However, the number of vacancies available in the particular district is very low; therefore, the respondents are directed to strictly follow the request seniority when it comes to the matter of considering the request transfer counseling.

7. This Writ Petition is allowed on the following terms:

- (i) The respondents are directed to consider the request of the petitioner and pass orders transferring her to the existing vacancy in Kanniyakumari, more specifically in the vacancy reported to be vacant at GPS Eluppivilal, Colachal Block, Kanyakumari District, and pass orders within a period of four weeks from the date of receipt of a copy of this order.
- (ii) No costs. Consequently, connected miscellaneous petitions are closed.

21.06.2024

Neutral Citation :Yes/No
jrs



W.P.No.4501 of 2023

To

WEB COPY

1. The Director of Elementary Education,
College Road,
Chennai-600006.
2. The District Elementary Educational Officer,
The District Elementary Educational Office,
Namakkal.
3. The Block Educational Officer,
Block Educational Office,
Namakkal.



WEB COPY



W.P.No.4501 of 2023

D.BHARATHA CHAKRAVARTHY, J.

jrs

W.P.No.4501 of 2023
and
WMP.Nos.45018 & 4519 of 2023

21.06.2024