



W.P.No.5239 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.5239 of 2023 and
W.M.P.Nos.5253 & 5257 of 2023

K.Latha

...Petitioner

-Vs-

- 1.The Additional Secretary to Government,
Adi-Dravidar and Tribal Welfare Department,
Fort St., George,
Chennai-600 009.
- 2.The Director of Adi-Dravidar Welfare,
Chepauk,
Chennai-5.
3. The District Adi-Dravidar & Tribal Welfare Officer,
Pudukottai District,
Pudukottai.
4. S.Pandiaraj

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for



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issuance of a Writ of Certiorari calling for the records pertaining to the proceedings of the 2nd respondent in Na.Ka.No.O1/31795/2021 dated 03.01.2023 and the consequential orders passed by the 3rd respondent in Na.Ka.No.Q5/25539/2022-2 dated 06.01.2023 and Na.Ka.No.Q5/23339/2022 dated 12.01.2023 and quash the same.

For petitioner : Mr.S.Kamadevan
For respondents 1 to 3 : Mr.K.Tamilvendan
Government Advocate
For respondent 4 : Mr.R.Amardeep
for
M/s.Tamizh Law Firm

ORDER

This writ petition has been filed challenging the order passed by the 2nd respondent dated 03.01.2023 and consequential order dated 12.01.2023 thereby transfer the petitioner from Adi Dravidar Welfare High School, Ennai, Pudukottai District to Adi-Dravidar Welfare Girls Hostel, Manalmelkudi, Pudukottai District and the 4th respondent was promoted and posted in the place of the petitioner.

2. The petitioner was selected and appointed as B.T.Assistant



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(Maths) in the year 2012. The post of Teacher and Warden/Matron working in the Adi-Dravidar Welfare Hostels are interchangeable and both are in the combined cadre for the purpose of seniority and promotion. The petitioner was transferred to Pudukottai District and posted in the Adi-Dravidar Welfare High School, Yennai on 01.12.2014. As per the Special Rules applicable to the teachers working in the Adi-Dravidar Schools, the crucial date for the date of drawal of panel is 1st march of every year. The post of B.T. Assistant could also be filled by promotion from the combined cadre of Elementary School Headmasters/Secondary Grade Teachers/Warden and Matrons of the same cadre subject to possessing the necessary qualifications prescribed of the posts. The 3rd respondent had drawn the panel for promotion to the post of B.T. Assistant in various subjects for the year 2021-2022 on 01.07.2022. However, there is no post of B.T. Assistant (Maths) available in the Pudukottai District. Therefore, it was announced that there was nil vacancy for promotion to the post of B.T. Assistant. Hence, during the promotion counselling, no one come forward to seek the post of B.T. Assistant (Maths) promotion and the counselling concluded on 27.10.2022. While being so, the first respondent passed an order of transfer, transferring



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the petitioner from Adi-Dravidar Welfare High School, Yennai to Government Adi Dravidar Welfare Girls Hostel, Melmanakudi on administrative grounds.

3. The learned counsel for the petitioner would submit that in order to accommodate the 4th respondent as B.T. Assistant on promotion, though there is no vacancy as per the panel for the year 2021-2022. Now the petitioner joined in the transferred post, otherwise she has to face consequences.

4. On perusal of the counter affidavit filed by the third respondent revealed that the vacancy of warden in the Adi-Dravidar Welfare Girls Hostel which cannot be filled up by Male Assistant. Therefore, the petitioner is being a female, she was transferred to the existing vacancy. Therefore, the 4th respondent was promoted and posted in the place of the petitioner. Whereas, admittedly, there was no vacancy for the post of B.T. Assistant (Maths) for the year 2021-2022. The proceedings dated 01.07.2022 revealed that there was no vacancy. Only on the telephonic message the 3rd



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respondent created the vacancy and promoted the 4th respondent to the post of B.T.Assistant (Maths) and posted him in the place of the petitioner.

Further, as per eligible list, Serial Nos.1 to 4 are lady members were promoted and posted as wardens in the ladies hostels. The 4th respondent was placed in Sl.No.5 and he was promoted and posted in the place of the petitioner. Tmt.V.Prema, working as Head Master, Adi-Dravidar Welfare Elementary School, Pilaviduthy, Pudukottai District whose name included in the panel list at Serial No.7. In fact she filed a writ petition before this Court in W.P.(MD).No.26721 of 2022 and thus this Court by an order dated 28.11.2022 directed the respondents to consider the petitioner's representation and pass orders. However, her request was not considered by the 3rd respondent since there was no vacancy. However, only in order to accommodate the 4th respondent in the post of B.T. Assistant (Maths) the petitioner was transferred. It is true that the 4th respondent cannot be accommodated in the Girls Hostel. Only in order to accommodate the 4th respondent, the petitioner had been transferred to the Adi-Dravidar Welfare Girls Hostel, Manalmelkudi, Pudukottai District.

5. In view of the above, the order of promotion of the 4th



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respondent as B.T.Assistant (Maths) dated 12.01.2023 cannot be sustained

and it is liable to be set aside. Subsequently, the order of transfer of the petitioner cannot be sustained and liable to be quashed. Accordingly, the impugned proceedings passed by the 2nd respondent dated 03.01.2023 and the consequential orders passed by the 3rd respondent dated 12.01.2023 are quashed. The 3rd respondent is directed to relieve the 4th respondent from the post of B.T. Assistant (Maths) from the Adi-Dravidar Welfare High School, Yennai, Pudukottai District and permit the petitioner to join as B.T.Assistant (Maths) in the Government Adi-Dravidar Welfare High School, Yennai, Pudukottai District forthwith. Further, the 3rd respondent is directed to promote and post the 4th respondent in the post of B.T. Assistant (Maths) whenever vacancy arises in future. The learned counsel for the 4th respondent submitted that there is a vacancy of B.T. Assistant Maths/Warden in the Virudhunagar District, Adi-Dravidar Welfare Department. Therefore, the 2nd respondent is directed to transfer the 4th respondent on his request to the Virudhunagar District and accommodate him in the said vacancy.

6. With the above direction, this writ petition is allowed.



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Consequently, connected miscellaneous petitions are closed. No costs.

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Index : Yes/No
Speaking/Non Speaking Order
Neutral Citation : Yes/No
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To

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G.K.ILANTHIRAIYAN,J.
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