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W.P.No.6508 of 2023 etc., batch cases

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.6508, 6516, 6520, 6522, 6526, 6527, 7147, 7156, 7151, 7152,
33595, 33601, 33602, 33603, 33604, 33605, 33607, 33608, 33609, 33610,
33611, 33612, 33613 of 2023 and
W.M.P.Nos.6593, 6558, 6570, 6582, 6583, 6590, 11695, 7212, 7220, 7221,
7213, 7224, 7225, 7218, 7217, 33436, 33420, 33422, 33425, 33427, 33407,
33430, 33431, 33435, 33409, 33411, 33413, 33418 of 2023

W.P.No.6508 of 2023

S.Nightingale Mary

...Petitioner

-Vs-

1. The State of Tamilnadu,
Rep. by it's Principal Secretary to Government,
School Education Department,
Secretariat,
Chennai-9.
2. The Commissioner of School Education,
O/o. The Commissioner of School Educational Office,
DPI Compound,
Chennai.
3. The State Project Director,
Samagra Shiksha.
(Integrated School Education),
State Project Directorate,
DPI Campus, Chennai-6.



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4. The Joint Director School Education (Personnel)
O/o.The Joint Directorate School Educational Office,
Chennai-600 006.

5. The Chief Educational Officer,
O/o. the Chief Educational Office,
Tirunelveli,
Tirunelveli District.

... Respondents

Prayer in W.P.No.6508 of 2023: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records relating to the impugned proceedings passed by the 4th respondent vide ந.க.எண்.41779/௪4/இ1/2021 dated 20.02.2022 (year of the date is wrongly mentioned as 2022 though the signature reveals the year as 2023) as consequentially impugned order passed by the 5th respondent in his proceedings in ந.க.எண்.674/அ1/ஒபக 2021 dated 20.02.2023 and quash the same as illegal and pass such further orders.

For petitioners : Mr.B.Vishnuchelliya

For respondents 1 to 5 : Mrs.Mythreye Chandru,
Special Government Pleader
and
Mr.L.S.M.Hasan Fizal,
Additional Government Pleader



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ORDER

These writ petitions have been filed challenging the order passed by the 4th respondent thereby relieving the petitioners from their respective posts and consequential order passed by the 5th respondent 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.



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



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batch cases and this Court passed order dated 07.11.2023 and 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.



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

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 petitions.



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3. In view of the above, this Court has no other option than to dismiss all the writ petitions. Accordingly, all the writ petitions are dismissed. However, the petitioners are permitted to continue in their respective post and place till 30.04.2024 and thereafter join in their transfer place on or before 07.06.2024. Consequently, connected miscellaneous petitions are closed. No costs.

28.02.2024

(1/2)

Index : Yes/No

Internet: Yes/No

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G.K.ILANTHIRAIYAN,J.
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