



W.P.No.15974 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2024

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.15974 of 2024
and WMP No.17443 of 2024

A.Nithya Priya

...Petitioner

Vs.

1. The Secretary to Government,
School Education Department,
Fort St.George,
Chennai 600 009
2. The Director of Elementary Education,
College Road, Nungambakkam,
Chennai 600 006.
3. The Chief Educational officer,
Nagapattinam, Nagapattinam District.
4. The District Educational Officer (Primary),
Nagapattinam, Nagapattinam District.
5. The Block Educational officer,
Vedaranyam, Vedaranyam Taluk,
Nagapattinam District.
6. The Secretary,
Valluvar Aided Elementary School,
Chettiyar Kuthagai,
Ayakkaranpulam II,
Vedaranyam Taluk,



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Nagapattinam District.

7. The Head Master (Incharge),
Valluvar Aided Elementary School,
Chettiyar Kuthagai,
Ayakkaranpulam II,
Vedaranyam Taluk,
Nagapattinam District

..Respondents

Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the respondent in Moo.Nu.No.1114/A3/2024 dated 06.06.2024 and quash the same and consequently, direct the respondents to retain the petitioner in the 6th respondent school.

For Petitioner	: Mr.S.Concious Ilango
For Respondent	: Mrs.Mythreye Chandru Special Government Pleader for R1 to R5 Mr.C.Prabhakaran for R6

ORDER

This writ petition has been filed challenging the impugned proceedings of the 4th respondent in Ref.No.Moo.Nu.No.1114/A3/2024 dated 06.06.2024 and for a consequential direction to the respondent to retain the petitioner in the 6th respondent school.



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2. The case of the petitioner is that she was working as a Secondary grade teacher in the 6th respondent school from the year 2012 onwards. Apart from the petitioner, there were three teachers working in the school. The petitioner further claims that she is the only person who has completed Teachers Eligibility Test (TET). The Head master of the school retired from service in the year 2023. Therefore, according to the petitioner, she is the only qualified person to be promoted as the Head Master.

3. The grievance of the petitioner is that the petitioner was all of a sudden deployed to another school through proceedings dated 06.06.2024. This was informed to the petitioner on 10.06.2024. Aggrieved by the same, the present writ petition has been filed before this Court.

4. The 4th respondent has filed a counter affidavit. In the Counter affidavit, it has been stated that the 6th respondent school is an aided institution. The Staff fixation order was passed with respect to the 6th respondent school for the academic year 2023 -2024 through letter dated 26.12.2023 and it was also communicated to the 6th respondent.



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There are totally 19 students studying in the 6th respondent school and as per the pupil teacher ratio fixed under GO Ms.No.231, it was found that one teacher was in surplus. Since the petitioner was found to be the Junior most teacher, she has been transferred on deployment as a secondary grade teacher in a Government Aided Elementary School, Kovilkudhagai, by proceedings of the 4th respondent dated 06.06.2024. Even though this deployment order was served on the petitioner on 10.06.2024, the petitioner did not join duty.

5. The 4th respondent has further stated in the counter affidavit that the deployment and the transfer of the petitioner has been done strictly in accordance with Tamil Nadu Private Schools (Regulation) Rules 2023 and since the petitioner was the Junior most teacher, there was no other alternative except to deploy the petitioner to some other needy school.

6. Insofar as the appointment of Head master is concerned, it has been stated in the counter affidavit that the 6th respondent has not sent any proposal seeking for approval of the appointment to the post of Head master and as of today, the Senior most teacher is functioning as



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the in-charge Head Master. In view of the same, the respondents have sought for the dismissal of this writ petition.

7. Heard Mr.S.Concious Ilango, learned counsel for the petitioner and Mrs.Mythreye Chandru, learned Special Government Pleader appearing for respondents 1 to 5 and Mr.C.Prabhakaran, learned counsel for 6th respondent.

8. This Court has carefully considered the submissions made on either side and also perused the materials available on record.

9. There is no dispute with regard to the fact that a staff fixation order was passed on 26.12.2023 with respect to the 6th respondent aided elementary school and it was found that there was one surplus teacher. The Staff fixation order dated 26.12.2023 was also served on the 6th respondent school.

10. Pursuant to the above order, the next step that was taken by the authority is to identify the surplus teacher and to deploy her to the concerned school where there is a requirement. At this juncture, it will be



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relevant to take note of the Division Bench Judgement of this Court in

WA (MD) No.76 of 2019 etc dated 31.03.2021. This judgement was the forerunner for the subsequent enactment of the Tamil Nadu Private Schools (Regulation) Rules, 2023. In this Judgement, while dealing with the fixation of staff and deployment of the surplus staff to another school, various directions were given at Paragraph 95(f). One important direction that was given was that on the identification of the staff, the school should be informed about the provisional order of fixation of teacher / pupil ratio and also the staff who has been identified as a surplus staff for deployment to another school where her services are required.

11. The above judgement ultimately resulted in the 2023 Rules.

For the case in hand, Rule 32(B) (I) and (II) are extracted hereunder :-

32. Staff fixation and deployment of surplus staff on retrenchment in an aided private school:-

The following norms shall be followed in the fixation of the strength of the staff based on the strength of the pupils studying in the standards / sections for which grant has been paid by the Government prior to the Academic Year 1991-1992 and the consequential deployment of the



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surplus staff:-

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B. Deployment of surplus staff:-

(1) The District Educational Officer concerned in respect of Primary and Middle schools, the Chief Educational Officer concerned in respect of High and Higher Secondary schools and the Joint Director concerned in respect of Anglo-Indian schools shall fix the strength of the staff based on the strength of the pupils updated in the Educational Management Information System (EMIS) as on the 1st day of August of every academic year and shall complete the assessment process on or before the 12th day of August of that academic year.

(2) The staff fixation statement along with the list of surplus staff identified shall be forwarded to the Secretary of the school committee or the management of the school concerned on or before the 15th day of August of that academic year. Explanation.- For the purpose of this sub-rule,- (i) the surplus staff so identified shall be the junior most staff in that school; (ii) the junior most staff so



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deployed will retain his seniority in the school from which he has been deployed;

(iii) the school to which the junior most staff has been deployed shall pay the salary to such deployed staff and shall have the right to take disciplinary action against such staff. (3) The Secretary of the school committee or the management of the school, as the case may be, shall explore the possibility of accommodating the surplus staff against any eligible vacant post in any other aided school under the same educational agency and within the Revenue District and send the report to the concerned District Educational Officer in respect of Primary and Middle schools, the Joint Director concerned in respect of Anglo-Indian schools and the Chief Educational Officer concerned in respect of High and Higher Secondary Schools by the 22nd day of August of that academic year. The concerned District Educational Officer or the Joint Director or the Chief Educational Officer, as the case may be, shall thereafter issue deployment orders to the



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Secretary of the school committee or the management of the concerned school from and to which the surplus staff shall be deployed, for accommodating those surplus staff within the Revenue District on or before the 31st day of August of that academic year.

12. A careful reading of the above rule shows that 32(A) deals with staff fixation and 32 (B) deals with deployment of service staff. While undertaking the exercise of deployment of service staff, sub clause (ii) specifically states that the staff fixation statement along with the list of surplus **“staff identified”** shall be forwarded to the Secretary of the school committee or the management of the school concerned. The rule further provides that while identifying such staff, the surplus staff so identified shall be the Junior most staff in the school and that junior most staff who is deployed to another school will retain his seniority in the school from which she has been deployed. The other requirements imposed in that Rule may not be relevant for this case.

13. The authorities while undertaking this exercise, identified one teacher, who was found to be surplus and the teacher who was



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identified was the petitioner since the petitioner was the Junior most staff, who had been regularized in Service only on 29.02.2012. The other two teachers are much senior to her.

14. Till here, there is no violation of the procedure. The only mistake that was committed by the authority is that after identifying the petitioner as the surplus staff, such identity should have been specifically forwarded to the 6th respondent school. This requirement is very important since the school must ultimately know as to which staff is uprooted from that school and is deployed to another school. The school may have some say here to identify / suggest the name of some other teacher to be deployed to some other school instead of the person identified by the authority.

15. There is yet another reason as to why the identity of the petitioner should have been informed to the 6th respondent school. According to the learned counsel for respondents 5 and 6, the petitioner is the only person who has passed TET and the other two remaining teachers have not passed TET. The incumbent Head Master had retired and there is a vacancy for that post. Among the available teachers, it is



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only the petitioner, who has the qualification to occupy that post. The learned counsel for 6th respondent made a specific submission that the 6th respondent school wants to appoint the petitioner in the post of Head Master. In view of the same, if the 6th respondent school had known that the petitioner is going to be deployed to some other school after being identified as the surplus teacher, the school would have given their objections or suggestions by suggesting the name of another teacher for deployment to some other school. This opportunity has also been lost by the 6th respondent school. As a result, as on date, there is no one qualified to be appointed as Head Master in the school and therefore, the Senior most teacher is now the in-charge Head master of the 6th respondent school.

16. The learned Special Government Pleader appearing on behalf of the respondents 1 to 5 submitted that after the petitioner was identified to be the surplus teacher, information was given to the 6th respondent school and they were called for a meeting and whereas, no one attended the meeting. Therefore, the authorities had no other alternative except to proceed further by serving the deployment order on the petitioner.



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17. The above submission made by the learned Special Government Pleader was vehemently opposed by the learned counsel for 6th respondent school. The learned counsel submitted that if any such intimation had been received by the 6th respondent school, they would have certainly objected to the deployment of the petitioner.

18. This Court does not want to get into this controversy at this Juncture. The authorities having passed staff fixation order on 26.12.2023, could have also identified the petitioner and named the petitioner and communicated the same in writing to the 6th respondent school. That would have served the purpose. Since that has not been done, it is very difficult for this Court to act upon the mere *ipsi dixit* from both sides. Even in the counter affidavit that has been filed by the 4th respondent, there is no specific averment to that effect.

19. In the light of the above discussion, in order to afford an opportunity to the 6th respondent school on the choice of the teacher for deployment to another school, this Court is inclined to interfere with the



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impugned order passed by the 4th respondent in

Moo.Nu.No.1114/A3/2024 dated 06.06.2024. Such interference is only to the limited extent of identity of the teacher, who has been chosen as surplus teacher and this should not mean that the very surplus identified by the authorities has been interfered. The staff fixation order dated 26.12.2023 stands as it is.

20. The 6th respondent school is now aware of the fact that the petitioner has been chosen as the surplus teacher for deployment to another school. Therefore, there shall be a direction to the 6th respondent school to submit their objections / suggestions regarding the teacher to be deployed from the 6th respondent school to some other school. Insofar as the appointment of Head master is concerned, that is not an issue to be gone into in the present writ petition and the same has to be independently worked out by the 6th respondent with the concerned authorities. This process shall be completed within a period of four weeks from the date of receipt of a copy of this order.

21. In the result, this writ petition is allowed with the above



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directions. No costs. Consequently, the connected miscellaneous petition is closed.

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Index: Yes/No
Neutral Citation : Yes /No
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