



W.P.No.18968 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.18968 of 2023 and
W.M.P.Nos.18209 & 18210 of 2023

C.Meganathan

...Petitioner

-Vs-

1. The Principal Secretary,
Government of Tamilnadu,
School Education Department,
Fort St., George, Chennai-600 009.
2. The Director of School Education,
College Road, Nungambakkam,
Chennai-600 006.
3. The State Project Director,
Directorate of State Project,
College Road, Nungambakkam,
Chennai-600 006.
4. The District Project Coordinator cum
Chief Educational Officer,
Dharmapuri District,
Dharmapuri.
5. G.S.Vijayakumar

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified calling for the records relating to the impugned order dated 08.05.2023 in Na.Ka.No.664/A1/O.Pa.Ka/2021 passed by the 4th respondent and to quash the same in respect of the 5th respondent is concerned and consequently direct the 4th respondent to place the petitioner as senior than the 5th respondent.

For petitioner : Mr.A.M.Amutha Ganesh
For respondents 1 to 4 : Mrs.S.Mythreye Chandru,
Special Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the 4th respondent thereby relieving the petitioner from his respective post.

2. The petitioner was appointed as Block Resource Teacher Educator (hereinafter called as "BRTE") on 25.07.2007. During the year 2008, he was transferred to Block Resource Centre, Natrampalli and during 2014, again he was transferred to Block Resource Centre, Kandhili. Finally, the petitioner was transferred to Block Resource Centre, Morappur, which is



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covered under Morappur Educational Block and the petitioner is serving as BRTE in the said Block. The 5th respondent was appointed as BRTE on 15.07.2006 and was working in the very same block. The 1st respondent issued a Government Order in G.O.(1D).No.134, School Education (Pa.Ka.5(1) Department dated 18.08.2021, for conducting a State wide counselling for transfer of BRTE under integrated School Education Project. The petitioner had attended the counselling for Transfer and he was posted as BRTE in Morappur Educational Block on 21.10.2021. Since then, the petitioner has been working thereon. Whereas, the 5th respondent participated in the counselling and got transfer order to Kambainallur Government Higher Secondary School, but he did not join duty on 16.09.2021. Subsequently, it seems that the 5th respondent filed a Writ Petition challenging the said G.O.134, before the Hon'ble Court and obtained an Interim Order. Accordingly, he has joined in the very same Education Block at Morappur on 14.03.2023 and working as Supervisor from 01.04.2023 in the same Block.



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2.1. The counselling was conducted under G.O.Ms.No.134 by treating it as zero vacancy with the guidelines stipulated thereon and the persons who participated in the counselling and the senior than the other BRTE's of the said block alone entitled for in-charge of supervisor in the said educational block. Accordingly, the petitioner was given in-charge as Superintendent in Morappur Educational Block as early as on 08.03.2023. The 5th respondent has been placed as senior than the petitioner which is affecting the petitioner's seniority and supervisor in-charge in the same block, who is not entitled for the same. The petitioner made a detailed representation on 10.04.2023 to the 4th respondent and on 15.05.2023 to the 3rd respondent, for the redressal of the petitioner's grievance to place the 5th respondent as junior to the petitioner and to allot suitable post to the petitioner. In response to representation, the 4th respondent passed the impugned order dated 08.05.2023 thereby placing the 5th respondent as senior to the petitioner based on his initial appointment and accordingly given in-charge to the respective places for working as BRTE supervisor in-charge in Morappur Educational Block.



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3. On perusal of the records it revealed that as per G.O.(1D).No.652, School Education (Pa.Ka.3(2)) Department, dated 31.10.2017, around 350 BRTes, who were appointed prior to G.O.Ms.No.181, School Education (C2) Department, dated 15.11.2011, (G.O. relating to Teachers Eligibility Test-TET) were ordered to be transferred in the academic year 2017-2018 by conducting counselling. The Joint Director of School Education has issued proceedings to the effect that the BRTes who are willing to get transfer to Government Schools as BT Assistants can participate in the counselling and who are not willing for conversion, they can exercise their right on relinquishment and continue in the same post. G.O.1(D).No.652, dated 31.10.2017, was modified by G.O.(1D).No.751, School Education (Pa.Ka.3(2)) Department, dated 12.12.2017. However, the right of relinquishment cannot be continued perpetually. The Government of Taminadu had passed G.O.Ms.No.100, dated 16.05.2018, integrating the Schemes aimed for the students from Pre.K.G to XII standard in the same nomenclature i.e., Samagra Shiksha Abhiyan. There are 413 Block Resource Centres functioning in 39 districts



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as part of the Scheme. The Government had issued G.O.(1D).No.218, School Education (Pa.Ka.5(1)) Department, dated 20.06.2019, framing guidelines for general counselling for transfer of those teachers working in the Government Schools. Clause 17 of the said G.O.(1D).No.218 dated 20.06.2019, contended that guidelines for general counselling for BRTEs would be issued separately. W.P.No.27085/2019 was filed by Tr.K.Sampath & 6 others, seeking direction to conduct transfer counselling by framing separate guidelines as per Clause-17. In compliance of the Order dated 30.09.2019 made in W.P.No.27085/2019, the Government has issued G.O.(1D).No.134, School Education (Pa.Ka.5(1)) Department, dated 18.08.2021, providing for transfer of 500 BRTEs as B.T. Assistants in the vacancies in the Government High/ Higher Secondary Schools for the academic year 2021-2022. In Clause 4(1)(a), it was stated that priority will be given to 362 BRTEs who were deployed to other districts in the year 2014. Likewise, priority was given to certain categories as per Clause 4(iii). As per the existing provisions for general transfer, priority cases were also given preference in the transfer counselling as was done in respect of all transfer counselling. When the counselling was conducted in the year 2012-



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2013, there was an option for continuing as BRTEs by relinquishing their right of conversion to Government Schools. But, in G.O.(1D).No.134, School Education (Pa.Ka.5(1)) Department, dated 18.08.2021, the said option was taken away. As per the provision in Clause 4(1)(a) in G.O.Ms.No.134, School Education (Pa.Ka.No.5(1) Department, dated 18.08.2021, out of the total number of 3700 BRTEs, 500 BRTEs have been converted as B.T.Assistants to parent Department. The remaining 2958 BRTEs (other than 242 BRTEs allocated to State and District Level Coordinators) are placed in BRC/CRC to monitor 45,898 Schools and the average each BRTE is allotted to is 15 to 17 Schools. Previously the distribution was not evenly made. The primary grievance of the petitioner is that BRTEs were/are compelled to get conversion to Government Schools as B.T. Assistants on the basis of seniority. Being senior within 500, BRTEs have to get conversion to the Government Schools. Therefore, it is alleged that 500 persons having seniority had not been given the option to continue as BRTEs.



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4. Heard, learned counsel appearing on either side.

5. As per Clause in 4(1)(a), preference was given those 362 working in BRTes out of 395 BRTes who were deployed to other districts from Chennai, Cuddalore, Dindigul, Karur, Madurai, Namakkal, Perambalur, Salem, Theni, Trichy, Tirunvelveli, Villupuram and Virudhunagar. As far as the deployment of surplus teachers is concerned, the junior most BRTes was deployed to available vacancies compulsorily without getting any option from the individual. Hence, they were deployed to other districts without considering their consent in the available vacancies. Hence, every year, at the time of general transfer counselling, the deployed teachers in the previous years are given priority.

6. The 5th respondent joined as BRTE, 21 day after relieving from Block Resource Centre that is on 14.03.2023, but the petitioner was joined as early as on 21.10.2021 based on the Zero counselling under the G.O.No.134 dated 18.08.2021. Therefore, the petitioner is to be senior than



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the 5th respondent. The validity of G.O.134 has been upheld by this Hon'ble Court. Therefore, as per 4(1)(a) & (c) of the said G.O. specifically stipulated that the candidate who opted as B.T. Assistant and joined in a School should not be permitted as BRTE and it also amounts to violation of the right of the continuing BRTE's. Similarly in Clause 4(1)(c) of the G.O. mandates, the senior of the BRTE were been given in-charge as supervisor in respective Educational Block and allot 10 schools under such supervision. But in this instance case, the 5th respondent had been appointed in the petitioner's block by bifurcating the territorial jurisdiction of the petitioner's block. Placing the petitioner as junior than that of the 5th respondent based on the initial appointment amounts to create a new seniority procedure and contrary to the G.O.Ms.No.134 which is mandated for zero counselling and the person who joined earlier as per the counselling alone to be treated as senior. The impugned order of the 4th respondent by placing the 5th respondent as senior is unsustainable in law and amounts to interfere into the service of the petitioner which cannot be permitted in the eye of law.



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7. In view of the above, the impugned order passed by the 4th respondent dated 08.05.2023 is liable to be quashed. Accordingly, the impugned order passed by the 4th respondent dated 08.05.2023 is quashed in respect of the 5th respondent alone. Further, 3rd and 4th respondents are directed to consider the petitioner's representation dated 10.04.2023 & 15.05.2023 respectively on merits in accordance with law within a period of twelve weeks from the date of receipt of copy of this order.

8. With the above direction, this writ petition is allowed. Consequently, connected miscellaneous petitions are closed. No costs.

28.02.2024

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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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