



W.P.No.19583 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2024

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.19583 of 2024

and

W.M.P. Nos. 21445 and 21446 of 2024

S.Suresh Kumar

... Petitioner

Vs

1. The Principal Secretary to Government,
Welfare of Differently Abled Persons Department,
Secretariat, Chennai – 600 009.
2. The Director,
Welfare of Differently Abled Department,
Thiruvallikeni, Chennai – 600 005.
3. The Principal,
Government Higher Secondary School for Blind,
No. 50, Trunk Road, Poonamallee,
Chennai – 600 056.
4. The Headmaster,
Government Higher Secondary School for Blind,
No. 50, Trunk Road, Poonamallee,
Chennai – 600 056.



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5. The Headmaster,
Government Higher Secondary School for Blind,
Membalam, Tanjore – 613 007.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining impugned order vide No. Sae. Mu. AA. No. 6685806/sipanir 1 /2024 dated 27.06.2024 and quash the same as illegal and consequently direct the second respondent to allow the petitioner to serve as Teacher in the fifth respondent school in the interest of justice.

For Petitioner : Mr. R.Prabhakaran

For Respondents : Mr. Yogesh Kannadasan,
Special Government Pleader (for R1 & R2)

Mr. M.Rajendran,
Additional Government Pleader (for R3)

ORDER

Heard Mr. R.Prabhakaran, learned counsel for the petitioner, Mr. Yogesh Kannadasan, learned Special Government Pleader appearing for the first and second respondents and Mr. M.Rajendran, learned Additional Government Pleader for the third respondent and perused the materials placed on record, apart from the pleadings.



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2. This Writ Petition has been filed challenging the order dated 27.06.2024 passed by the second respondent, whereby the petitioner was deputed and transferred to the Government Higher Secondary School for the Blind, Poonamalle from the Government Higher Secondary School for the Blind, Tanjore.

3. The petitioner, a 100% visually impaired person, holds an M.A. in Tamil Literature, a B.Ed. degree, and a Diploma in Teaching the Blind (Senior). He has been working as a BT Assistant Teacher at the Government School for the Blind in Tanjore since 2019. Subsequently, in 2022, he was promoted to the post of PG Assistant Teacher in the same school. While that being so, the petitioner was deputed and transferred from the fifth respondent/school to the fourth respondent/school.

4. The learned counsel for the petitioner submitted that the impugned order is in gross violation of Section 16 of the Rights of Persons with Disabilities Act, 2016, which requires the Government to ensure that all educational institutions provide inclusive education for children with



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disabilities. Therefore, the second respondent's order to depute the only teacher without providing an alternate is a clear violation of the said provision. He further submitted that it also violates the Office Memorandum dated 02.02.2024, which reiterated the guidelines for providing certain facilities in respect of disabled persons already employed in Government, particularly concerning transfers and postings.

5. The learned counsel for the respondents submitted that the petitioner was selected and transferred by way of deputation to the fourth respondent/School in order to provide training to the Blind Teachers.

6. On a perusal of the guidelines dated 22.07.2009 issued by the Government of Tamil Nadu, it is revealed that physically challenged Government servants in all groups, viz., A, B, C, and D, shall be posted near their native places wherever possible. The said concession may be considered subject to administrative constraints, and it is clarified that disciplinary proceedings will not attract this concession.



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7. Admittedly, no disciplinary proceedings have been initiated against the petitioner. The petitioner has now been deputed and transferred to the fourth respondent/School to train Tamil Teachers who teach blind students. The petitioner is a native of Tanjore District and has been working at the fifth respondent/School since 2019. Therefore, he is fully conversant with the fifth respondent/School's atmosphere and building structures, enabling him to easily reach the School without assistance from others. A sudden transfer would definitely affect his day-to-day life, and it would be very difficult for him to navigate the new route and building structures of the new School. Therefore, the order of deputation by way of transfer is violative of the guidelines issued by the Government of Tamil Nadu dated 22.07.2009.

8. Further, the Government of India, by Office Memorandum dated 31.03.2014, states that, as far as possible, persons with disabilities may be exempted from the rotational transfer policy/transfer and be allowed to continue in the same job, where they would have achieved the desired performance. Furthermore, preference in place of posting at the time of



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transfer/promotion may be given to persons with disabilities, subject to administrative constraints. The practice of considering the choice of place of posting in the case of persons with disabilities may be continued. To the extent feasible, they may be retained in the same job, where their services could be optimally utilized.

9. In view of the above, the order of deputation of transfer cannot be sustained and it is liable to be quashed. Accordingly, the impugned order dated 27.06.2024 is hereby quashed.

10. In the result, this Writ Petition is allowed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

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Index:Yes/No
Neutral Citation/Yes/No
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