



WEB COPY

W.A.No.983



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2024

CORAM :

THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Appeal No.983 of 2023
and
CMP.No.9823 of 2023

K. Rajalakshmi

.. Appellant

Versus

1. The Secretary,
School Education Department,
Fort St.George, Chennai - 600 009.
 2. The District Elementary Education Officer,
District Elementary Educational Office,
Cuddalore.
 3. The Additional Assistant Elementary Educational Officer,
Additional Assistant Elementary Educational Office,
Anna Gramam Block, Panruti.
 4. The Panchayat Union Middle School,
Anna Gramam Block, Panapakkam,
Panruti, Cuddalore.
 5. Mr.Saravanan,
Anna Gramam Block,
Reddikuppam, Panruti,
Cuddalore.
- Respondents

..

Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 27.04.2022 made in WP.No.26284 of 2015.



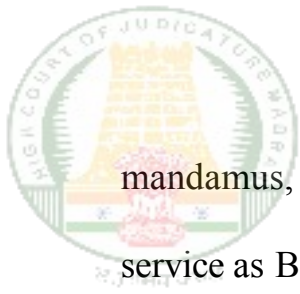
For Appellant : Mr.J.Shanmuga Sundara Babu
For R1 to R4 : Mrs.Mythreye Chandru
Special Government Pleader

JUDGMENT

(Judgment of the Court was delivered by R. MAHADEVAN, J.)

The appellant has preferred this intra-court appeal, as against the order of dismissal dated 27.04.2022 passed by the learned Judge in W.P.No.26284 of 2015 filed by her.

2. It is the case of the appellant that she was appointed as B.T.Assistant (Science) by the Teachers Recruitment Board *vide* order dated 15.09.2010 and she joined duty in the 4th respondent school. While so, due to ill-health, she availed medical leave from 18.08.2015 to 26.08.2015. In the meantime, the 5th respondent was appointed in the 4th respondent school in the place of the appellant, by showing her place as vacant. After availing medical leave, when the appellant tried to join duty on 27.08.2015, she was not permitted to do so. According to the appellant, the respondent authorities have not passed any orders either transferring or relieving the appellant from the post of B.T. Assistant (Science) in the 4th respondent school. In the stated circumstances, the appellant has filed WP No. 26284 of 2015 seeking a



mandamus, forbearing the respondents from interfering with her continuance of service as B.T. Assistant (Science) in the 4th respondent school, without following due procedure as laid down in G.O.Ms.No.232 School Education [SE 5(1)] Department, dated 10.07.2015.

3. By order dated 27.04.2022, the learned Judge dismissed the aforesaid writ petition on the ground that the appellant is not continuing in the post of B.T.Assistant in the 4th respondent school and hence, the prayer made in the writ petition has become redundant. Challenging the same, the appellant is before this court with the present appeal.

4. The learned counsel for the appellant submitted that without following due procedure established under law, the respondent authorities were trying to interfere with the service of the appellant in the fourth respondent school. According to the learned counsel, the respondent authorities have not passed any order relieving/ transferring/non-allowing the appellant to continue the service in the post of B.T. Assistant (Science) in the 4th respondent school. However, the learned Judge erred in dismissing the writ petition filed by the appellant, by the order impugned herein, which is arbitrary, illegal and in violation of the principles of natural justice. Therefore, the learned counsel sought to allow this writ appeal by setting aside the order passed by the learned Judge.



5. On the other hand, the learned Special Government Pleader appearing for the respondents 1 to 4 submitted that the appellant is not continuing in the post of B.T.Assistant and hence, the learned Judge has rightly dismissed the writ petition, which do not require any interference by this court. It is also submitted that subsequent to the dismissal of the writ petition, show cause notice dated 02.02.2023 and charge memo dated 26.04.2023 came to be issued to the appellant and she has also filed her reply / explanation to the same.

6. Heard both sides and perused the documents enclosed in the typed set of papers, including the order impugned in this appeal.

7. Admittedly, the appellant was appointed as B.T. Assistant (Science) in the fourth respondent school on 15.09.2010 and that, she went on medical leave from 18.08.2015 to 26.08.2015 and thereafter, she was not permitted to join duty.

8. Before the writ court, the appellant sought a direction forbearing the respondent authorities from interfering with her continuance of service as B.T. Assistant (Science) in the fourth respondent school, without following due procedure under law. Considering the present position of the appellant that she is not continuing in service, the learned Judge has rejected the relief so sought by the appellant in the writ petition, as the same has become redundant. The contention of the learned counsel for the appellant that the appellant has not been issued with any order, either



transferring or relieving her from the post of B.T Assistant in the fourth respondent and hence, she is still in service, cannot be countenanced by this court, in view of the reason that after availing medical leave, she was not permitted to join duty. It is settled law that in service matters, there must be a definite cause of action and in the absence of the same, no writ petition can be entertained under Article 226 of the Constitution of India. Therefore, we do not find any reason to interfere with the order so passed by the learned Judge.

9. However, taking note of the subsequent development that had taken place subsequent to the dismissal of the writ petition that show cause notice dated 02.02.2023 and charge memo dated 26.04.2023 have been issued to the appellant, to which, she has also filed her reply/ explanation, this court grants liberty to the appellant to work out her remedy before the authorities concerned in the manner known to law.

10. With the above observation, this writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

J.]

[R.M.D., J.] [M.S.Q.,

12.02.2024

Index : Yes / No

Internet : Yes / No



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R. MAHADEVAN, J
and
MOHAMMED SHAFFIQ, J

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