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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)Nos.896 & 897 of 2024

and

W.M.P(MD)Nos.916, 918, 20410 and 20477 of 2024

W.P(MD)No.896 of 2024

P.Prabhadevi

... Petitioner

Vs.

The Joint Director,
Kallar Reclamation,
Madurai - 20.

...Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the respondent in Na.Ka.No.H.2/251/2024, dated 05.01.2024 and quash the same and consequently direct the respondent to permit the petitioner to continue her service in Government Kallar Middle School, G.Thummalapatty, Dindigul District.

For Petitioner : Mr.P.Gunasekaran

For Respondent : Mr.N.Satheesh Kumar
Additional Government Pleader

* * * * *



W.P(MD)No.897 of 2024

R.Manimegalai

... Petitioner

Vs.

The Joint Director,
Kallar Reclamation,
Madurai - 20.

...Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the respondent in Na.Ka.No.H.3/11065/2023, dated 05.01.2024 and quash the same and consequently direct the respondent to permit the petitioner to continue her service in Government Kallar Middle School, G.Thummalapatty, Dindigul District.

For Petitioner : Mr.P.Gunasekaran

For Respondent : Mr.N.Satheesh Kumar
Additional Government Pleader

COMMON ORDER

The instant writ petition has been filed by two secondary grade teachers, working in the Kallar Middle School, G.Thummalapatty, Periyakulam Division, Dindigul District, challenging their order of transfer.



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2. According to the learned Counsel appearing for the writ petitioners, the petitioners have been transferred during a non-transfer period and the order of transfer is punitive in nature. The learned Counsel appearing for the petitioners has also referred to the fact that the impugned order indicates about extraordinary circumstances prevailing in the school as the reason for effecting the order of transfer.

3. The learned Counsel appearing for the petitioner had further contended that there were allegations of sexual harassment as against the Head Master of the above said school and instead of initiating action as against him, alleging that the petitioners were instigating the students, the instant order of transfer has been passed. The learned Counsel appearing for the petitioner also refers to allegations made as against the writ petitioners in the counter filed by the respondent to the effect that the petitioners have been made false allegation as against the Head Master of the above said school and therefore, the Headmaster as well as both the petitioners have been transferred to a different school. Therefore, according to the learned Counsel appearing for the writ petitioners, the order of transfer is punitive in nature.



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4.Per contra, the learned Additional Government Pleader appearing for the respondent herein relying upon the counter had contended that some allegations were made as against the Head Master of the said school and it was enquired into. After enquiry, it came to the knowledge of the authorities that only these two writ petitioners have instigated the students to make allegations as against the Headmaster and therefore, the Headmaster as well as both the writ petitioners have been transferred to a different school. This transfer order should only be construed to have been passed due to administrative exigencies and therefore, the order impugned in the writ petition may be sustained. He further contended that the petitioner in W.P.(MD)No.896 of 2024 is working in the present station for the past 9 years and other petitioner in W.P.(MD)No.897 of 2024 is working in the present station for the past 5 years. Therefore, the transfer order issued to the petitioners is legally sustainable.

5.I have carefully considered the submission made on either side and perused the materials available on record.

6.Normally, this Court does not interfere in the order of transfer. A perusal of the transfer order indicates that extraordinary situation is prevailing in the Kallar Reclamation School and therefore, the petitioners have been transferred



to a different school. Therefore, it is clear that some incidents have taken place in the school, which has triggered the order of transfer.

7.A perusal of the counter affidavit filed by the authorities reveals that there was an allegation of sexual harassment as against the Headmaster of the school, which was enquired into. Ultimately, it is the contention of the authorities that only these two teachers were responsible for those allegations. Therefore, it is clear that only based upon some serious allegations made as against the writ petitioners, the order impugned in the writ petition has been passed. Considering the averments made in the paragraph Nos.6 and 7 of the counter affidavit, this Court is of the considered opinion that due to certain serious allegations as against the writ petitioners, the impugned order of transfer has been passed. If the order of transfer is sustained, that will amount to punitive transfer.

8.In view of the above said deliberations, the order impugned in both the writ petitions are hereby set aside. However, it is open to the authorities to effect transfer orders on regular administrative grounds during the end of the academic year.



9. With the above said observations, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are also closed.

16.10.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
RJR

To

The Joint Director,
Kallar Reclamation,
Madurai - 20.



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R.VIJAYAKUMAR, J.

RJR

W.P.(MD)Nos.896 & 897 of 2024

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