



W.P.(MD) No.11167 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD) No.11167 of 2023

1.S.Muthumani

2.T.Sivantheeswari

...

Petitioners

-VS-

1. The State of Tamil Nadu,
Rep. by its Secretary,
School Education Department,
Fort St.George,
Chennai.
2. The Commissioner of School Education,
DPI Campus,
Chennai.
3. The Director of Elementary Education,
DPI Campus,
Chennai.
4. The Chief Educational Officer,
Virudhunagar District,
Virudhunagar.
5. The District Educational Officer,
Aruppukkottai,
Virudhunagar District.



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6. The Block Educational Officer,
Aruppukkottai,
Virudhunagar District.

7. Umadevi

...

Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of certiorarified mandamus, to call for the records relating to the impugned order passed by the 3rd respondent vide his proceedings in Na.Ka.No.159/T1/2023 dated 30.01.2023 and quash the same as illegal and consequently to direct the official respondents to transfer the petitioners to the post of Secondary Grade Teachers as and when the vacancy arises in the parent union viz. Aruppukkottai Union in accordance with the order made in WP(MD).No. 19520 of 2019 etc. dated 25.11.2019.

For Petitioners : Ms.H.Jasima Yasmin
for M/s.Ajmal Associates.

For Respondents 1 to 6 : Mr.N.Sathish Kumar,
Addl.Govt. Pleader.



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ORDER

The petitioners in both the writ petitions were working as Secondary Grade Teachers in two different schools, falling within Aruppukottai Union of Virudhunagar District. Both of them were transferred to Narikudi Union, on the ground that they were rendered surplus in Aruppukottai Union, by way of proceedings, dated 30.08.2019, by independent orders.

2. According to the learned counsel for the petitioners, as per the re-deployment order, their seniority is retained in their parent union, namely Aruppukottai Union, and, as and when vacancies arise in the said Union, they will be re-transferred back to the said Union, on priority basis. However, under the impugned order, dated 30.01.2023, one Umadevi, the seventh respondent herein, who was working at a school in Pudukottai District, has been transferred to a panchayat union school located in Aruppukottai Union. Therefore, according to the learned counsel for the petitioners, without considering the priority of the writ petitioners, for being re-transferred to Aruppukottai Union, the authorities cannot fill up the vacancy arising in



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Aruppukottai Union, by transferring teachers from different union or from different district.

3. Per contra, learned Additional Government Pleader, appearing for the respondents, has contended that the transfer of the seventh respondent from Pudukottai District to Aruppukottai Union in Virudhunagar District is on administrative grounds and, therefore, the petitioners cannot have any grievance over the same.

4. The respondents have filed a counter, contending that as and when vacancies arise, the names of the petitioners would be considered in the order of seniority. Paragraph 9 of the counter affidavit is extracted as follows :

"9. It is submitted that in Aruppukottai Union there is no Secondary Grade Teacher vacancy. After the Primary School Head Master promotion counselling, two Secondary Grade Teachers will be promoted as Primary school Headmasters and these two vacancies will become vacant in the Aruppukottai Union. The Block Education Officer maintain a seniority List for all type of teachers separately as Middle School Head Master, B.T.Teachers (Subject



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1. Seniority No.66, M.Maheswari to Kariapatti Union
2. Seniority No.76, S.Muthumani to Narikudi Union
- 3.Seniority No.77, T.Sivantheeswari to Narikudi Union
- 4.Seniority No.79, S.Mukilmathi to Thiruchuli Union

Based on the orders dated 28-04-2023, in W.P.(MD) No. 11167 of 2023 and W.M.P.(MD) No.9755 of 2023 the request of the petitioners will be considered at the time of filling the above two vacancies in the order of seniority taking all the teachers went on transfer to other union due to rendering them as surplus."

5. Considering the above said facts, it is clear that this Court cannot take away the power of the State to transfer an employee from one place to another place, by placing a legal impediment upon them not to transfer anyone to any school in Aruppukottai Union, without considering the names of the writ petitioners. However, when the writ petitioners have been



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transferred from Aruppukottai Union to a different union on the ground that they are surplus teachers, as and when vacancies arise, it is the duty of the State to restore their original position in their parent Union.

6. In view of the above said findings, the order impugned in the writ petition is sustained. However, the respondent authorities are directed to strictly follow the averments in Paragraph 9 of the counter, which has been extracted above.

7. With the above said observations, this Writ Petition stands disposed of. No costs. Consequently, the connected W.M.P.(MD) Nos.9753, 9755 and 13729 of 2023 are closed.

30.08.2024

NCC : Yes / No

Index : Yes / No

(2/2)

Internet : Yes / No
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R.VIJAYAKUMAR, J.

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