



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.17947 of 2023

and

W.M.P(MD)Nos.14988 & 14989 of 2023

P.Muthukumar

... Petitioner

Vs.

1.The Director,
Directorate of School Education,
DPI Complex, Noongampakkam,
Chennai.

2.The Joint Director (Employment Unit),
Directorate of School Education,
DPI Complex, Nungampakkam,
Chennai.

3.The Chief Educational Officer,
Office of the Chief Educational Officer,
Ramanathapuram District.

4.The Head Master,
Government Higher Secondary School,
Melayakudi, Paramakudi Taluk,
Ramanathapuram District.

5.The Head Master,
Government High School,
Kulathur, Ramanathapuram District.



6.Mrs.K.Udhaya Geetha
BT Assistant(English),
Government Higher Secondary School,
Melayakudi, Paramakudi Taluk,
Ramanathapuram District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the entire records connected with the order in Na.Ka.No.09568/C3/E2/2023, dated 09.05.2023 passed by the respondent No.2 and consequential order in Na.Ka.No.2 of 2023 dated 08.06.2023 passed by 5th respondent and quash the same, consequently directing the respondents to transfer the petitioner to 4th respondent school within the time stipulated by this Court.

For Petitioner : Mr.S.Malaikani
For Respondent : Mr.J.Ashok
Additional Government Pleader
for R1 to R5
No appearance for R6

ORDER

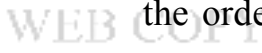
The instant writ petition has been filed by a BT Assistant(English) Teacher, challenging the order of transfer granted in favour of the sixth respondent on 09.05.2023 from Kulathur Government High School to Melayakudi Government Higher Secondary School, Ramanathapuram District.



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2. According to the learned Counsel appearing for the writ petitioner, he is a physically challenged person with 60% disability. The petitioner is working in Anandur Government Higher Secondary School in Ramanathapuram District from the year 2022 onwards.

3. The petitioner being a physically challenged person, he has submitted an application to participate in the transfer counselling to be conducted on 25.05.2023, on the fond hope that he would get accommodated at Melayakudi Government Higher Secondary School. A seniority list for transfer counselling was published by the authorities. As per the said seniority list, the petitioner's name was in Sl.No.1 and the sixth respondent's name was found in the Sl.No. 51. However, when the petitioner participated in the counselling, Melayakudi Government Higher Secondary School was not reflected. Hence the petitioner has filed W.P.(MD)No.13217 of 2023, seeking a mandamus to cancel the counselling held on 25.05.2023 and to conduct a fresh counselling by including Melayakudi Government Higher Secondary School also. While the said writ petition was pending, the petitioner came to know that the sixth respondent has been appointed to the Melayakudi Government Higher Secondary School by way of an order dated 09.05.2023 based upon her request. Hence, the second



writ petition namely W.P.(MD) No.17947 of 2023 has been filed, challenging the order of transfer granted to the sixth respondent dated 09.05.2023 and the communication issued to the sixth respondent to join at Melayakudi Government Higher Secondary School on 08.06.2023.

4. According to the learned Counsel appearing for the writ petitioner, when the transfer counselling was to be conducted on 25.05.2023, the authorities were not right in invoking their power of administrative exigency to grant transfer to the sixth respondent to Melayakudi Government Higher Secondary School.

5. Per contra the learned Additional Government Pleader appearing for the respondents by extensively relying upon the counter contended that though the counselling has to be conducted on 25.05.2023, the said counselling will not take away the administrative power of the authorities to effect transfer on administrative exigencies, even prior to the transfer counselling.

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



7.The petitioner being a physically challenged person with 60% disability had applied for participating in the transfer counselling to be held on 25.05.2023. The sixth respondent herein has submitted a transfer application to the second respondent through the Head Mistress on 02.05.2023. The same has been forwarded by the Chief Educational Officer, namely, the third respondent herein only on 20.05.2023. On 29.05.2023(wrongly mentioned as 09.05.2023) an order of transfer has been granted in favour of the sixth respondent on administrative grounds. Therefore, it is clear that the sixth respondent herein in order to circumvent the transfer counselling, had applied for a request transfer and an order of transfer has been granted in her favour, after the counselling process was over.

8.The sixth respondent instead of participating in the transfer counselling to be held on 25.05.2023 has managed to screen the BT Assistant(English) vacancy from the transfer counselling process, even before a transfer order was issued in her favour. Though the transfer order in favour of the sixth respondent was issued only on 29.05.2023, the BT Assistant(English) post at Melayakudi Government Higher Secondary School was screened from the transfer counselling even on 25.05.2023 itself. It clearly shows that the order of transfer is not based upon any administrative exigency, but only to circumvent the



seniority achieved by the writ petitioner in the transfer counselling seniority list published by the authorities concerned.

9. In view of the above said deliberations, this Court is inclined to pass the following orders:-

i) the order impugned in the writ petition is hereby set aside;

ii) the respondents herein are directed to pass an order, transferring the writ petitioner to the fourth respondent school within a period of eight weeks from the date of receipt of a copy of this order. Accordingly, this writ petition stands allowed to the extent as stated above. No costs. Consequently, connected miscellaneous petitions are also closed.

18.09.2024

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



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To

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R.VIJAYAKUMAR, J.

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W.P(MD)No.17947 of 2023

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