



W.P.(MD).No.19699 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.19699 of 2024

and

W.M.P(MD) Nos.16691 and 16692 of 2024

T.Ajantha Valan Arasi

... Petitioner

Vs.

1. The Director of School Education,
EVK Sampath Maaligai,
DPI Campus, College Road,
Nungambakkam,
Chennai – 600 006.
2. The Joint Director of School Education,
(Personnel)
EVK Sampath Maaligai,
DPI Campus, College Road,
Nungambakkam,
Chennai – 600 006.
3. The Chief Educational Officer,
Office of the Chief Educational Officer,
Kanyakumari District,
Kanyakumari.



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4. The Chief Educational Officer,
Office of the Chief Educational Officer,
Virudhunagar District,
Virudhunagar.

5. The Head Master,
Government High School,
Kannattuvilai,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the fifth respondent vide ந.க.எண். 63/2024 நாள் : 09.07.2024 and quash the same and consequently directing the respondents to permit the petitioner to work continuously in Government High School, Kannattuvilai, Kanyakumari District as per the order passed by the second respondent vide ந.க.எண். 028801/சு2/இ1/2023 நாள் : 03.08.2023.

For Petitioner : Mr.D.Shanmugaraja Sethupathi

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

ORDER

The instant Writ Petition has been filed by a B.T.Assistant Teacher, challenging the order passed by the fifth respondent herein, wherein the order of deputation already granted in favour of the writ petitioner on 03.08.2023



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has been cancelled and the petitioner has been directed to join duty in the parent School.

2. The petitioner along with four other teachers have filed W.P.(MD) Nos.938 to 942 of 2022 before this Court, seeking a direction to permit them to participate and provide priority in the general counselling to be conducted for general transfer of the Graduate Assistant Teachers, relying upon the orders passed in W.P(MD) No.16310 of 2021, dated 24.11.2021 and W.P(MD) No.22337 of 2021, dated 16.12.2021. The Court, by an order dated 21.01.2022 had allowed the said writ petitions.

3. Since the order of this Court was not complied with, the petitioner had filed Cont.P.(MD) No. 1289 of 2023. Pending contempt petition, an order dated 03.08.2023 was passed by the second respondent herein deputing the writ petitioner to Government Higher Secondary School, Kannattuvilai Kanyakumari District. Relying upon this order dated 03.08.2023, the contempt petition stands closed.



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15765 of 2024, wherein this Court was pleased to allow the said writ petition on 12.07.2024 and the petitioner therein has been retained in the deputed place.

7. Therefore, according to the learned counsel appearing for the writ petitioner, when the State is not ready to comply with the orders of this Court to provide the priority in the general counselling and has passed an order of deputation, the same cannot be considered to be a mere order of deputation to be cancelled by the Director of School Education after a period of one year. Hence, he prayed for allowing this writ petition.

8. Per contra, the learned Additional Government Pleader appearing for the respondents herein had contended that whenever the order of deputation has been passed, it can be cancelled by the concerned authorities at any point of time. In the present case, by way of proceedings dated 01.03.2024, the Director of School Education has cancelled all the orders of deputation passed by the Joint Director of School Education. Therefore, the impugned order passed by the Headmaster of School is only a consequential proceedings. Hence, the present writ petition is not maintainable, without



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challenging the order passed by the Director of School Education, dated 01.03.2024. Hence, he prayed for dismissal of the writ petition.

9. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

10. The narration of the above said dates and events will clearly indicate that the order passed by this Court in W.P(MD) Nos.938 to 942 of 2022 on 21.01.2022 could not be complied with by the writ respondents for want of vacancy in Kanyakumari District and when the contempt petitions were filed, the authorities have resorted to an order of deputation to Kanyakumari District. In such circumstances, the deputation orders cannot be treated as a regular deputation order which could be cancelled by the authorities at any point of time. When the deputation orders have been issued pursuant to the orders of this Court, the same could be recalled only when the petitioner is accommodated in the place of her choice during the general counselling. In fact, the order of deputation dated 03.08.2023, reveals that as and when vacancies arise, the petitioner would be accommodated in the general counselling.



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11. Though general counselling was conducted in June 2024, since priority was not granted to the writ petitioner, as directed by this Court in W.P(MD) Nos.938 to 942 of 2022, the petitioner could not choose her place of choice in the said counselling. Having known about the said fact, the petitioner has not participated in the said counselling.

12. Therefore, it is clear that the authorities have not complied with the orders of this Court either during the counselling of the year 2022 or of the year 2024. Hence, in such circumstances the authorities cannot take shelter under the order of deputation.

13. In view of the above said deliberations, in the order passed in favour of the similarly placed persons, this Court is inclined to pass the following orders:

(i) The order impugned in the writ petition is set aside and the respondent authorities are directed to retain the petitioner at Kannattuvilai Higher Secondary School, Kanyakumari District;



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and

(ii) The petitioner shall participate in the next general counselling on a priority basis as directed by this Court in W.P(MD) Nos.938 to 942 of 2022, dated 21.01.2022.

14. With the above said observations, this Writ Petition stands allowed to the extent as stated above. There shall be no order as to costs. Consequently connected Miscellaneous Petitions stand closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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R.VIJAYAKUMAR,J.

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