



W.A(MD)Nos.770 to 772 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.04.2024

CORAM :

JUSTICE N.SESHASAYEE

and

JUSTICE P.VADAMALAI

W.A(MD)Nos.770 to 772 of 2017
and CMP(MD)Nos.5575 to 5578 of 2017

WA(MD)No.770 of 2017:

1.The State of Tamilnadu,
Rep. By its Secretary,
Education Department,
Fort St.George,
Chennai – 600 009.

2.The Director of School Education,
Chennai – 600 006.

3.The Chief Educational Office,
Nagercoil,
Kanyakumari District.

4.The District Educational Officer,
Kuzhithurai Zone,
Kanyakumar District

...Appellants 1 to 4/Respondents

Vs.

1. T.V.Suresh Kumar

..1st Respondent/Writ Petitioner

2.Madhavaru Narayanaru Memorial
High School,
rep. By its Correspondent,
Edaicode,
Kanyakumari District.

...2nd Respondent/5th Respondent



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3.The Headmaster,
Government Higher Secondary School,
Arumanai,
Kanyakumari District ..3rd Respondent/6th Respondent

PRAYER: Writ Appeal is filed under Clause 15 of Letter Patent as
against the common order passed by this Court dated 02.04.2014 in
W.P(MD)No.15143 of 2013.

WA(MD)No.771 of 2017:

1.The Director of School Education,
Chennai – 600 006

2.The Chief Educational Officer,
Nagercoil,
Kanyakumari District

3.The District Educational Officer,
Kuzhithurai zone,
Marthandam,
Kanyakumari District.

4.The Headmaster,
Government Higher Secondary School,
Arumanai,
Kanyakumari District. ...Appellants 1 to 3 & 5/Respondents
Vs.

1. T.V.Suresh Kumar ... 1st Respondent/Writ Petitioner

2.Madhavaru Narayanaru Memorial
High School,
rep. By its Correspondent,
Edaicode,
Kanyakumari District. ...2nd Respondent/4th Respondent



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PRAYER: Writ Appeal is filed under Clause 15 of Letter Patent as against the common order passed by this Court dated 02.04.2014 in W.P(MD)No.18679 of 2013.

WA(MD)No.772 of 2017:

1.The Director of School Education,
Chennai – 600 006

2.The Chief Educational Officer,
Nagercoil,
Kanyakumari District

3.The District Educational Officer,
Kuzhithurai zone,
Marthandam,
Kanyakumari District.

4.The Headmaster,
Government Higher Secondary School,
Arumanai,
Kanyakumari District. ...Appellants 1 to 3 & 5/Respondents
Vs.

1. T.V.Suresh Kumar ...1st Respondent/Writ Petitioner

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High School,
rep. By its Correspondent,
Edaicode,
Kanyakumari District. ...2nd Respondent/4th Respondent

PRAYER: Writ Appeal is filed under Clause 15 of Letter Patent as against the common order passed by this Court dated 02.04.2014 in W.P(MD)No.19955 of 2013.



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In all Writ Appeals:

For Appellants : Mr.D.Sadiq Raja
Additional Government Pleader
For R1 : Mr.B.Brijesh Kishore
For R2 : No appearance

COMMON JUDGMENT

[Judgment was delivered by **N.SESHASAYEE, J.**]

These triple Appeals are preferred against a common order passed by the learned single Judge of this Court in a batch of three Writ Petitions namely, W.P.(MD)Nos.15143 of 2013, 18679 of 2013 and 19955 of 2013.

2. For a narrative convenience, the parties are referred by their rank in the Writ Petitions.

3. The facts are as follows:

- The petitioner was appointed as Craft Teacher (Agriculture) in Madhavaru Narayanaru Memorial High School (hereinafter referred to as 'M.N.M School'), the 4th respondent in W.P(MD)Nos.18679 and 19955 of 2013 and 5th respondent in W.P(MD)No.15143 of 2013. M.N.M School



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is a non-minority private aided school. While so, the strength of the students fell low considerably for three consecutive years, as a result of which the petitioner was withdrawn from M.N.M School and was deputed to the Government Higher Secondary School, Arumanai, Kanyakumari District (hereinafter referred to as the Government School), which is arrayed as the 6th respondent in W.P(MD)No.15143 of 2013 and the 5th respondent in W.P(MD) Nos.18679 and 19955 of 2013.

- This deputation has been taken effect. While so, the M.N.M School made a representation to the authority to withdraw the deputation and to let the petitioner to serve in his school. Even though the petitioner had moved from the M.N.M School to the Government School, since it was on deputation, his lien continued with the M.N.M School. Subsequently, based on a representation, the Chief Educational Officer cancelled the deputation. The petitioner challenged this in W.P(MD)No.9822 of 2006.



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- In the meantime, the petitioner had also made a representation to the Director of School Education to absorb him in a Government School. This was rejected by the said authority and this came to be challenged in W.P(MD)No. 15413 of 2013.
- Even as this was pending, the Chief Educational Officer passed proceedings directing the Head Master of the Government School to relieve the petitioner and this has become the subject matter in W.P(MD)No.18679 of 2013.
- Acting on the same, the Head Master of the Government school relieved the petitioner and this came to be challenged in W.P(MD)No.19955 of 2013.
- As indicated earlier, all these Writ Petitions came to be disposed of by a common order dated 02.04.2014. In his order, the learned single Judge of this Court held as follows:

18. A perusal of the above said order would show that while setting aside the order impugned in that Writ Petition, this Court has not given any liberty



to the respondents to pass a fresh order by remitting the matter back to the respondents. Therefore, the order of deployment already passed by this Court has become final and the subsequent cancellation order passed on 14.09.2006 having been set aside by this Court, the petitioner is entitled to continue in the Government Higher Secondary School; Arumanai based on the deployment order passed already. When that being the position, the impugned orders, dated 14.11.2013 and 19.11.2013 came to be passed relieving the petitioner from the Government Higher Secondary School, Arumanai solely based on the order passed by the Director of School Education dated 23.07.2013.

24. Considering these facts, I am of the view that the impugned orders, dated 14.11.2013 and 19.11.2013 are not sustainable and accordingly, the same are liable to be set aside.

25. Insofar as the order made by the Director of School Education, dated 23.07.2013, which is impugned in W.P(MD)No.15143 of 2013 is concerned, the Director of School education has only stated that the petitioner has not made the request for permanent absorption through the School and that he has not made such a request to



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the Government.

26. Needless to say that it is the Government that has to decide ultimately the issue of absorption. Therefore, the petitioner has to make a representation to the Government seeking for permanent absorption.

27. The learned counsel appearing for the petitioner submits that the Teachers working in the aided Schools were permanently absorbed in the Government Schools and such information is also furnished by the Chief Educational Officer through his communication, dated 14.04.2004. Therefore, W.P(MD)No.15143 of 2013 is disposed of with a direction to the petitioner to make a representation to the Government, namely, the first respondent within a period of three weeks from the date of receipt of a copy of this order seeking for permanent absorption at the Government Higher Secondary School, Arumanai or in any other Government School. If any such representation is made, it is for the first respondent to consider the same and pass orders on merits and in accordance with law within a period of four months from the date of receipt of copy of such representation.

4. This common order is under challenge in these Appeals.



5. The learned Additional Government Pleader submitted that the order now under challenge is being challenged essentially because, there is an error entertained by the learned single Judge as he construed deputation as deployment. Inasmuch as the petitioner had also been abiding by the order of deputation, lien continues with the M.N.M School and hence, the authority has very right to cancel the deputation as and when it becomes necessary. For instance, if the strength of the M.N.M School has increased, necessarily, it will be in need of a Craft Teacher for Agriculture. When the circumstances that necessitated the deputation of the petitioner no more in existence, then, the *status-quo-ante* necessarily may have to be restored.

6. The learned Additional Government Pleader added that the M.N.M School literally has ceased to function and at least three of the teachers therein have been moved to some other Government Schools, where they were absorbed. This implies that situation is not there to restore *status quo ante* as to warrant the cancellation of deputation. This being the status of deputation, there is no immediate threat to the petitioner to go and serve in a school which



does not exist today. So far as his absorption in the Government School is concerned, it is a policy decision of the Government and that may be considered as per rules. Secondly, the petitioner may have to comply with the requirement of sending his representation through the M.N.M School, where he continues to retain his lien.

7. The statement of the learned Additional Government Pleader is recorded.

8. The M.N.M. school literally does not exist today. Therefore, *vis-a-vis* the order cancelling the deputation which was under challenge in W.P(MD)No.15143 of 2013 itself has lost and there is no real cause of action.

9. So far as paragraph No.18 of the impugned order is concerned, this Court records that inasmuch as the petitioner was only deputed and not deployed, the authority will have authority to cancel the deputation, if the need arises.

10. Turning to the petitioner's necessity to have himself absorbed in



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a Government School is concerned, let him set the ball in motion by approaching the M.N.M School to do the needful for him. As and when any such proposal is made by the M.N.M.School, the Government is free to take such appropriate decision as per the rules.

11. The Writ Appeals are accordingly disposed of. No costs. Consequently, connected miscellaneous petitions closed.

(N.S.S., J.) (P.V.M, J.)
01.04.2024

Index : Yes / No

Neutral Citation : Yes / No

CM

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