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WP.No.62 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2025

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.62 of 2019

and

WMP.No.64 of 2019

C.Amsa (F/35 years),
D/o. C.Chinnaraj,
BT Assistant (Maths),
Panchayat Union Middle School,
Puliampatti, Dharmapuri Uion,
Dharmapuri District ...

Petitioner

/vs/

- 1.The Director of Elementary Education,
DPI Campus, College Road,
Chennai-600 006.
- 2.The District Educational Officer,
Dharmapuri District, Dharmapuri.
- 3.The Block Educational Officer,
Dharmapuri-636 701
Dharmapuri District
4. R.Chinnasamy,
BT Assistant (Maths) (Under Suspension),
Panchayat Union Middle School,
Muthugoundankottai,
Dharmapuri Union,
Dharmapuri District.



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5. R.Sathyannarayanan,
BT Assistant (Maths),
Panchayat Union Middle School,
Muthugoundankottai,

Dharmapuri Union,

Dharmapuri District.

...

Respondents

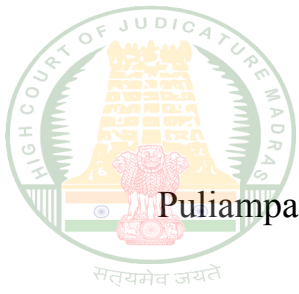
Writ Petition is filed under Article 226 of the Constitution of India to issue a WRIT OF CERTIORARIFIED MANDAMUS to call for the records the impugned order issued by the 2nd Respondent in Na.Ka.No.2241/A7/20.12.2018 and to QUASH the same and consequently directing the Respondent permit the Petitioner to continue to work as BT Assistant (Maths) in Panch Middle School, Puliampatti, Dharmapuri Union, Dharmapuri District.

For Petitioner : Mr.S.Nedunchezhiyan

For Respondents : Mr.A.N.Ayyadurai, G.A. for RR1 & R3
: Mr.R.N.Amarnath For R5,
: No appearance for R4

ORDER

This writ petition has been filed to call for the records relating to the impugned order of the 2nd respondent dated 20.12.2018 in Na.Ka.No.2241/A7 and quash the same and consequently direct the respondents 1 to 3 to permit the petitioner to continue as BT Assistant (Maths) in Panch Middle School,



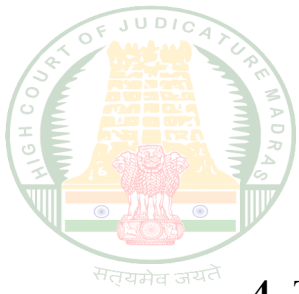
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Puliampatti, Dharmapuri Union, Dharmapuri District.

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2. Heard Mr.S.Nedunchezhiyan, learned counsel for the petitioner, Mr.A.N.Ayyadurai, learned Government Advocate for the respondents 1 to 3 and Mr.R.N.Amarnath, learned counsel for the fifth respondent and perused the materials available on record.

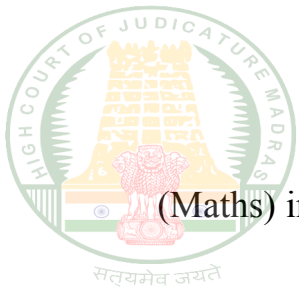
3. The petitioner was promoted to the post of B.T. Assistant on 14.09.2012 and posted in the Panchayat Union Middle School, Pullianthope, Dharmapuri Union. The 4th respondent, who has already been working there as a BT Assistant (Maths), was suspended from service on the charges of misconduct. During the relevant point of time, the 5th respondent, who was working in Karimangalam Union, was transferred to the vacancy that arose due to the suspension of the 4th respondent in the petitioner's school. The criminal case pending against the 4th respondent ended in acquittal, and thereafter, he was reinstated into service. The 2nd respondent issued proceedings on 20.12.2018 by accommodating the 4th respondent in the petitioner's school and reverting the petitioner to a secondary grade teacher.



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4. The learned counsel for the petitioner submitted that the petitioner has been working as a B.T. Assistant (Maths) in the Dharmapuri union, and the 5th respondent came to that union only on 26.07.2013. So far as the petitioner is concerned, she has been promoted and posted against the regular vacancy and not in the vacancy that had arisen due to the suspension of the 4th respondent. So, it is claimed that the reversion of the petitioner to the post of secondary grade teacher is unreasonable and illegal.

5. The learned government advocate for the respondents 1 to 3 submitted that as the 4th respondent has been facing a criminal case, a vacancy arose in which the 5th respondent has been accommodated. The 5th respondent has been recruited through direct recruitment as a B.T. Assistant and hence, he cannot be given a reversion or termination for want of vacancy considering the length of his service. The petitioner cannot be given any service protection but can be given priority to be accommodated in any future vacancies. If a post in B.T. Assistant was kept vacant in the Dharmapuri union, the 4th respondent would have been accommodated and the petitioner could not have placed on an order of reversion. As the writ petitioner was the most junior among the promoted B.T. Assistants



(Maths) in the Dharmapuri union, they were reverted to secondary grade teacher.

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6. The learned counsel for the 5th respondent submitted that in view of the representation given by the petitioner, the 5th respondent's seniority should not be disturbed.

DISCUSSION:

7. The fact that the petitioner has been promoted to the post of B.T. assistant on 14.09.2012 against the regular vacancy is not in dispute. Admittedly the petitioner has not been posted in the vacancy that arose due to the suspension of the 4th respondent, Chinnasamy. Only the 5th respondent has been transferred and placed in the vacancy that arose due to the suspension of Chinnasamy on 26.07.2013. As the petitioner was promoted on 14.09.2012, she was working in the same union even before the 5th respondent came and joined in the same union. The 4th respondent's suspension came into effect on 17.03.2011. The petitioner was working in the school even when the 5th respondent came and joined as a B.T. Assistant (Maths), and hence, no doubt, the petitioner has got the seniority in the Dharmapuri union. The unreasonable reason assigned by the 2nd respondent for reverting the petitioner to the post of secondary grade teacher is



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that the 5th respondent is a direct recruit to the post of B.T. Assistant and hence, he cannot be either reverted or terminated, and hence, the petitioner needed to be reverted.

8. Revocation or suspension of one employee cannot result in termination of any employee who is already in service. It is correct that the 5th respondent cannot be reverted to any other post because he has joined directly to the post of B.T. Assistant. Now the issue is not the question of reverting the 5th respondent anywhere or to any post. But that impossibility of reverting the 5th respondent cannot have any impact on the petitioner, who had also been functioning as a B.T. assistant in the same school on and from 14.09.2012.

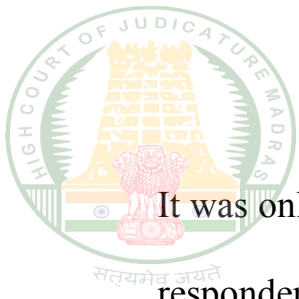
9. Had the 2nd respondent accommodated the 5th respondent in any other vacancy in the Dharmapuri Union or sent him back to the union from where he had come to the Dharmapuri union. Once the petitioner has been promoted and joined as a B.T. Assistant, her cadre and service are equal to that of the 5th respondent, and she cannot be treated unfairly just because she came as a '*promotee*.' The difficulty in accommodating the 4th respondent has arisen only because the 5th respondent has come and filled in his place. So automatically



when the 4th respondent is needed to be accommodated on reinstatement, it is the 5th respondent who has been disturbed and not the petitioner. It is still worse that the 2nd respondent has taken a decision to revert the petitioner from B.T.Assistant to Secondary Grade Teacher just in order to ensure that the 4th respondent exists in one and the same place.

10. This is the unfair and unreasonable manner in which the 2nd respondent has appreciated the situation that has arisen subsequent to the acquittal of the 4th respondent. Had the petitioner been promoted to the post of B.T. Assistant either temporarily or permanently in view of the vacancy that arose subsequent to the suspension of the 4th respondent, it can be accepted that once the 4th respondent is reinstated, the petitioner has to vacate and accommodate the 4th respondent to be in his earlier place. It is apparent that the petitioner has already been working in the same union even when the 5th respondent came and joined subsequently against the vacancy of the 4th respondent.

11. So long as the vacancy of the 4th respondent continued to exist after his suspension, there was no trouble or insecurity to the position of the petitioner.



It was only after the 5th respondent was transferred and accommodated in the 4th respondent's vacancy, the petitioner became a scapegoat. The rightful exercise that ought to have been done by the 2nd respondent is to send back the 5th respondent to his own parent union instead of bothering the petitioner by reverting her to a lower grade on a flimsy reason that she was a '*promotee*' and the 5th respondent was a '*direct recruit*.'

12. The 2nd respondent himself has stated that the 5th respondent cannot be reverted to any lower post because he happened to be in the direct recruitment to the post of B.T. Assistant. But that can not give any leverage to the 2nd respondent to other persons who are also working in the same capacity but got posted through the other channel of promotion. Instead of sending back the 5th respondent to his parent union or keeping him under compulsory wait for want of vacancy, the 2nd respondent has chosen a wrongful course of disturbing the petitioner by reverting her to a lower post.

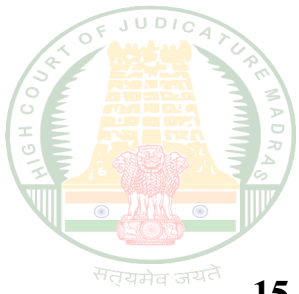
13. The situation can be visualized in this manner as well. Supposing if the 4th respondent had not been suspended and he was continuing in the same post even then, the petitioner would have been functioning as B.T. Assistant (Maths)



on and from the date from which she had been promoted to the post of B.T.

Assistant (Maths). Hence, without any iota of reasonableness, the 2nd respondent passed an order to infringe the service rights of the petitioner by reverting her to the lower position to her utmost disadvantage. Hence, the impugned order passed by the 2nd respondent is liable to be set aside.

14. It is learnt from the submission of the 5th respondent that in view of the subsequent vacancy that arose in the same union, the petitioner has also been accommodated, and as of now, the petitioner and the 4th and 5th respondents are working in one and the same union. That would have solved the issue of accommodation alone but would have not remedied the loss caused to the petitioner by reverting her to the position of the secondary grade teacher. So far as the petitioner is concerned, she is not liable to be reverted as she has already been working in the same union even before the 5th respondent entered into the union, and the 4th respondent's vacancy also existed in the same union. As the impugned order has been passed in an arbitrary and unreasonable manner without considering the better possible way in which the situation could have been dealt with by protecting the interests of all the persons concerned, the impugned order is liable to be set aside.



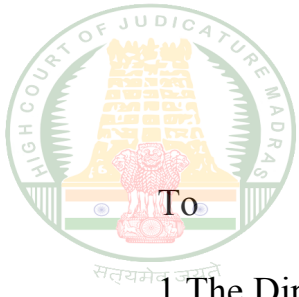
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15. In view of the above reasons, this Writ Petition is **Allowed**. The impugned order passed by the 2nd Respondent in Na.Ka.No.2241/A7 dated 20.12.2018 is set aside. The respondents are directed to permit the petitioner to continue to work as B.T.Assistant (Maths) at Panchayat Middle School, Puliampatti, Dharmapuri Union, Dharmapuri District and pass order to this effect. If such order has not been passed so far and to pay all the attendant and monetary benefits from the date when she was reverted and disbursed the same within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

26.02.2025

Index : Yes
Internet : Yes/No
Speaking: Non Speaking order
Neutral: Yes/No
jrs



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To

1.The Director of Elementary Education,
DPI Campus, College Road,
Chennai-600 006.

2.The District Educational Officer,
Dharmapuri District, Dharmapuri.

3.The Block Educational Officer,
Dharmapuri-636 701
Dharmapuri District



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R.N.MANJULA, J.
jrs

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