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W.P.No.11749 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.11749 of 2023
and W.M.P.Nos.11627 to 11629 of 2023

K.Jayakumar

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Principle Secretary to Government,
School Education Department,
Fort St.George, Chennai – 600 009.
- 2.The Commissioner of School Education,
Directorate of School Education,
DPI Campus, College Road, Chennai – 600 006.
- 3.The Chief Educational Officer,
Chief Educational Office,
Collectorate, Salem – 636 001.
- 4.The District Educational Officer (Secondary),
District Educational Office (Secondary),
Collectorate, Salem – 636 001.
- 5.The Headmaster,
Government Higher Secondary School,
Mallur, Salem – 636 203.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records of the third respondent having reference Me.A.Na.Ka.No.18885/A2/2022, dated 03.03.2023 along with the separate sheet containing names/details of Lab Assistant Excess Post and quash the same in so far the inclusion of the name of the petitioner in Serial No.20 of the list of Lab Assistants in excess post details in the separate sheet for deployment to another school is concerned and consequently direct the third respondent to allow the petitioner to continue to work as Lab Assistant in Government Higher Secondary School, Mallur, Salem District 5th respondent herein following the guidelines issued in G.O.Ms.No.12, School Education (SE5(1) Department dated 03.02.2022 issued by the first respondent.

For Petitioner : M/s.C.Uma

For Respondents 1 to 5 : Mr.T.M.Rajangam,
Government Advocate

ORDER

This writ petition has been filed by the petitioner to call for the records



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of the third respondent having reference Me.A.Na.Ka.No.18885/A2/2022, dated 03.03.2023 along with the separate sheet containing names/details of Lab Assistant Excess Post and quash the same in so far the inclusion of the name of the petitioner in Serial No.20 of the list of Lab Assistants in excess post details in the separate sheet for deployment to another school is concerned and consequently direct the third respondent to allow the petitioner to continue to work as Lab Assistant in Government Higher Secondary School, Mallur, Salem District 5th respondent herein following the guidelines issued in G.O.Ms.No.12, School Education (SE5(1) Department dated 03.02.2022 issued by the first respondent.

2. Learned counsel for the petitioner submitted that the petitioner is a disabled person with 80% Locomotor Disability and was appointed as Night Watchman on 23.11.2012 in Government Higher Secondary School, Panamarathupatty, Salem by the fourth respondent on 23.11.2012. Thereafter, he got promoted to the post of Record Clerk on 07.09.2016. This being the case, the petitioner was transferred as Record Clerk to the Government Higher Secondary School, Mallur, Salem District on mutual transfer, which is



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nearby to his native on 23.10.2017.

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3. Learned counsel for the petitioner would further submit that the District Educational Officer, Attur, by proceedings dated 27.09.2018, promoted the petitioner as Lab Assistant on 28.09.2018 to the Government High School, Thamayanur, Pethanaickenpalayam Taluk, Salem and the petitioner has also joined the said school. Subsequently, through the Headmaster of the said school, the petitioner has sent a representation dated 13.05.2019 to the third respondent stating that he is suffering from the disability of 80%, he may be transferred to Government Higher Secondary School, Mallur, which is nearer to his residence, since the post of Lab Assistant in Government Higher Secondary School, Mallur will be vacant with effect from 01.06.2019. However, the said representation was rejected by the third respondent. Thereafter, the petitioner has filed writ petition in W.P.No.21034 of 2019 seeking transfer to Government Higher Secondary School, Mallur as Lab Assistant. Pursuant to the filing of this writ petition, the third respondent issued a proceedings dated 10.09.2019 by transferring the petitioner to Government Higher Secondary School, Mallur, Salem.



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Hence, the aforesaid writ petition was closed on 25.11.2019.

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4. Learned counsel for the petitioner would further submit that the second respondent issued a proceedings dated 28.03.2022 regarding the transfer of the surplus Lab Assistants and also issued a instructions to all the Chief Educational Officers of all districts to determine the number of BT Assistants and PG Assistants based on the student strength. In the said proceedings, the second respondent stated that if persons suffering from 40% disability is found surplus, exemption may be granted to them and the junior in the same school may be declared as surplus. This being so, the name of the petitioner is included in the list of surplus Lab Assistants in Serial No.20.

5. Learned counsel for the petitioner would further submit that the Headmaster, Government Higher Secondary School Mallur, Salem District wrote to the fourth respondent to grant exemption from transfer counselling of surplus staff to the petitioner, since he is suffering from 80% disability. The petitioner also made representation dated 23.03.2023 to the third respondent pointing out that he is suffering 80% locomotor Disability and



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inclusion of his name in the list of surplus lab assistants with a view to transfer him from Mallur was repugnant to the provisions of The Rights of Persons With Disabilities Act, 2016 and requested to remove his name from the said list and allow him to continue in the same place i.e., Government Higher Secondary School, Mallur. However, the said representation was not considered by the third respondent. Aggrieved over the same, the petitioner has come forward with the present writ petition.

6. Learned Government Advocate appearing for the respondents would submit that since the petitioner is a physically challenged person having 80% disability, the petitioner was not transferred to any place and allowed to continue in the same place i.e., Government Higher Secondary School, Mallur, Salem. He further submitted that subsequent to the filing of this writ petition, transfer counseling was also took place in the year 2024. Even in the said counseling, the petitioner's name was not there in the list and he was not disturbed.

7. Heard the learned counsel on either side and perused the materials



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available on record.

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8. In view of the submission made by the learned Government Advocate appearing for the respondents, it is clear and evident that as on date, the petitioner is working in the fifth respondent school and he is not transferred to any other school. However, this Court directs the third respondent to permit the petitioner to continue in the same school till attaining the age of superannuation for the reason that he is a physically challenged person having 80% disability. The above direction issued by this Court is mainly based on the grounds of sympathy alone.

9. This writ petition is disposed of with the above observation and direction. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

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To:

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School Education Department,
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J.SATHYA NARAYANA PRASAD,J.

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