



W.A.(MD)No.1088 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.02.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

**W.A.(MD)No.1088 of 2022
and
C.M.P.(MD)No.8685 of 2022**

1.T.Sulochanan

2.Shreenadh

... Appellants / Writ Petitioners

Vs.

1.The Secretary to Government,
Elementary Education,
Secretariat, Chepauk,
Chennai - 5.

2.The Director of School Education,
College Road, Chennai.

3.The District Collector,
Kanyakumari District,
Nagercoil.

4.The Chief Educational Officer,
Kanyakumari District, Nagercoil.

5.The District Educational Officer,
Kanyakumari District, Nagercoil.



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6.The District Elementary Educational Officer,
Kuzhithurai Range, Kuzhithurai,
Kanyakumari District.

7.The Assistant Elementary Educational Officer,
Kuzhithurai Range, Kuzhithurai,
Kanyakumari District.

8.The Headmaster,
Government Primary School,
Orunooranvayal, Arumanai Post,
Kanyakumari District.

... Respondents

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order dated 22.07.2022 passed in W.P.(MD)No.14325 of 2010 on the file of this Court.

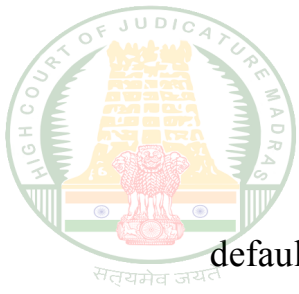
For Appellants : No appearance

For Respondents : Mr.T.Amjadkhan,
Govt. Advocate.

JUDGMENT

None appears for the appellants.

2.Instead of dismissing the writ appeal for default, we propose to pass an order on merits. Only a civil appeal has to be dismissed for



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default, if the appellant or the appellant's counsel do not turn up. The same approach need not be adopted in the case of letter patent appeals.

3.The writ petitioners are husband and son of the deceased Remani. She was working as Headmistress in the Government Primary School, Orunooranvayal. It is stated to be located in an inhospitable terrain. The case of the writ petitioners is that Remani passed away on account of difficult working conditions. She had earlier requested for transfer and if the transfer application dated 13.08.2008 had been favourably considered, she would not have died on 13.01.2009. The petitioners therefore demanded compensation from the Government. The learned Single Judge in our view rightly dismissed the writ petition. In fact, in our view, exemplary cost should have been imposed for filing such a frivolous writ petition. Admittedly, the death was due to natural cause. A government servant is obliged to work in any station where he or she is directed to work. If Remani had some difficulty, she could have resigned. No body compelled her to work in that particular station. Paragraph Nos.11 to 15 of the order passed by the learned Single Judge are as follows:-



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“11.A perusal of the promotion order dated 09.11.2007 indicates that the deceased teacher has been promoted as a Headmistress and appointed to a Government Primary School which is located in a hilly area. While the said teacher was alive, she has sent a request on 13.08.2008 requesting that she may be demoted as Secondary Grade Teacher and be appointed in any School within the Kuzhithurai Educational limit. In the said request, she had specifically stated that only after appointing in the Primary School as a Headmistress, she came to know that the School is lacking in basic amenities. Hence, it is clear that the allegation in the present writ petition that the respondents authorities have posted the writ petitioner to the said School with a malafide intention is not factually correct. On the other hand, the said teacher has chosen the School on her own volition on being promoted as a Headmistress.

12.The request of the teacher for demoting her was made on 13.08.2008. It was not a simple request for demotion, but she requested the authorities to post her in Kuzhithurai Educational Zone. Hence, this is a request for transfer in the middle of the academic year. Normally such requests are entertained only at the fag end of the academic year. However, a request for demotion has to be considered by the higher authorities and the consequence of the demotion has to be worked out. Therefore, we cannot find fault with the authorities for not immediately taking action on the request of the said teacher for demotion and transfer.



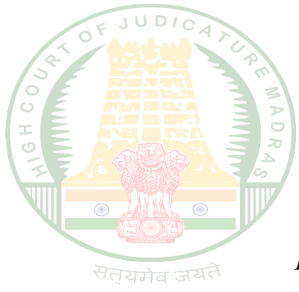
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13. *The first petitioner has further complained that his wife was forced to travel nearly 40 kilometer every day to reach the School and this has resulted in deterioration of her health and it resulted in heart attack and ultimately she passed away. The first petitioner's wife has participated in the promotion counselling and she has chosen the said place on her own volition. There is no proof whatsoever that she was compelled to choose the said School. That apart, being a Government Servant, transfer is an incident of service and the teacher cannot make any complaint that she is being posted to a hilly terrain. In fact, the said School has been opened for the welfare of the Tribal children. It is also not the case of the writ petitioners that she was already posted to a School in a hilly terrain and continuously she is being posted to such a place. Hence, posting of a Government servant in a hilly terrain for a particular period of time cannot be considered to be a harassment or a punishment, especially when she is promoted and posted as Headmistress of the said Primary School.*

14. *The lack of basic amenities and infrastructure facilities in the School have been there for so many years. As per contention of the respondents authorities, the School has also been upgraded in the year 2008-2009 thereby indicating that the School has got proper infrastructure facilities. The lack of infrastructure facilities cannot be cited as a ground for not accepting appointment to a particular place assuming that the School lacks certain basic amenities.*

15. *Viewed from any angle, the unfortunate death of the first*



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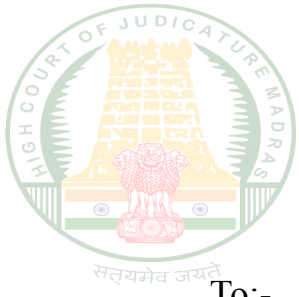
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petitioner's wife has happened due to natural causes and it cannot in any way be attributed to her posting in a particular School. When the Government authorities cannot be found fault with for the posting of the first petitioner's wife, they cannot be held responsible for the unfortunate death of the first petitioner's wife. It is brought to the notice of the Court that all the terminal benefits have been disbursed. The respondents authorities are also regularly paying the family pension to the husband of the deceased teacher.”

4.We are satisfied that the learned Single Judge was fully justified in dismissing the writ petition. Interference with the said order is not warranted and the writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.) & (M.J.R. J.)
27.02.2025

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