



W.P.(MD)No.21424 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.02.2025

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)No.21424 of 2024

and

W.M.P(MD)Nos.18136, 18137 and 25792 of 2024

P.Ratna Jeyanthi

... Petitioner

Vs.

1.The Director of School Education,
Office of the Director of School Education,
College Road, DPI Complex,
Chennai.

2.The Chief Educational Officer,
Office of Chief Educational Officer,
Kokkirakulam,
Tirunelveli.

3.The District Educational Officer,
Office of District Educational Officer,
Thirunagar, Tirunelveli Town,
Tirunelveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the first respondent in Na.Ka.No.043536/W1/E2/2024, dated 27.08.2024 and quash the same and consequently direct the respondents to revert back the petitioner to the Government Higher Secondary School, Thalpathi Samuthiram.



WEB COPY



W.P.(MD)No.21424 of 2024

For Petitioner : Mr.H.Arumugam

For Respondent : Mr.T.Amjad Khan
Government Advocate

ORDER

This Writ Petition has been filed challenging the order of the first respondent, dated 27.08.2024 and consequently, directing the respondents to revert back the petitioner to the Government Higher Secondary School, Thalpathi Samuthiram.

2. The case of the petitioner is that the petitioner was appointed as P.G.Assistant Botany Teacher on 01.02.2006 in the Government Higher Secondary School, Nelkattum Seval, Tirunelveli District. Thereafter, she was transferred to Kallidaikurichi and then to Panagudi. Subsequently, she was promoted as Head Mistress on 31.12.2021 and posted in the Government Higher Secondary School, Thalpathi Samuthiram, Tirunelveli. She joined in the said School on 01.02.2022. The petitioner is having unblemished service of 22 years. While she was working as Head Mistress in the Government Higher Secondary School, Thalpathi Samuthiram, Tirunelveli, vide order dated 09.08.2024 of the first respondent, she was transferred to Government Higher



W.P.(MD)No.21424 of 2024

Secondary School, Kalakkad. Against the said order, the petitioner filed a writ petition in W.P(MD)No.20193 of 2024 before this Court. During the pendency of the said writ petition, the first respondent has passed the impugned order, dated 27.08.2024 by withdrawing the order, dated 09.08.2024. When this fact brought to the notice of the Court, the said writ petition was dismissed by its order, dated 28.08.2024 with liberty to the petitioner to challenge the same. Aggrieved by the order, dated 27.08.2024 issued by the first respondent, the present writ petition has been filed.

3. The learned counsel for the petitioner would submit that the reasons stated in the order, dated 09.08.2024 of the first respondent to transfer the petitioner from Government Higher Secondary School, Thalapathy Samuthiram to Government Higher Secondary School, Kalakkad are baseless and far from truth. The first respondent without conducting any enquiry and without following any procedure passed the order of transfer, dated 09.08.2024 with vindictive nature. When that order is under challenge before this Court immediately he withdrawn the order, dated 09.08.2024 and passed fresh order, dated 27.08.2024. The learned counsel for the petitioner further submits that in the meanwhile, the first respondent pressurized the petitioner to join at



W.P.(MD)No.21424 of 2024

Government Higher Secondary School, kalakkad. Left with no other option, the petitioner joined in the said School on 23.08.2024. The learned counsel for the petitioner further submits that the petitioner is going to retire by 31.05.2025 and as such she has only three months of service. It is further submitted that though the interim order of stay was passed by this Court on 10.09.2024 staying the order, dated 27.08.2024 issued by the first respondent, the first respondent did not allow the petitioner to join in the Government Higher Secondary School, Thalpathi Samuthiram and as such she has no other option except to continue at Government Higher Secondary School, Kalakkad.

4. On the other hand, the learned Government Advocate appearing for the respondents advanced his arguments in the same lines as averred in the counter affidavit filed on behalf of the respondents. The learned Government Advocate further contended that the petitioner joined as Head Mistress in Government Higher Secondary School, Kalakkad on 23.08.2024, pursuant to the transfer order, dated 09.08.2024 issued by the first respondent and still she is continuing there and therefore nothing survives in this writ petition and sought to dismiss the writ petition as infructuous.



W.P.(MD)No.21424 of 2024

5. Heard the submissions of the respective counsels and carefully examined the materials available on record.

6. It is an admitted fact that the petitioner was transferred by the first respondent by order, dated 09.08.2024 from Government Higher Secondary School, Thalpathi Samuthiram to Government Higher Secondary School, Kalkkad . The said order was challenged before this Court in W.P(MD)No.20193 of 2024. During the pendency of the writ petition, the first respondent has withdrawn the order under challenge before this Court and issued another order, dated 27.08.2024. The order, dated 27.08.2024 is under challenge in the present writ petition and the same is stayed by this Court by its order, dated 10.09.2024. As and when, the original transfer order, dated 09.08.2024 issued by the first respondent has been cancelled vide next transfer order, dated 27.08.2024 and the said order, dated 27.08.2024 is stayed by this Court on 10.09.2024, in our view no transfer order against the petitioner exist as on date. Whether the petitioner joined Government Higher Secondary School, kalakkad at her own or under the pressure of the first respondent whatever the reasons it may be, the action of the respondents in continuing her in the Government Higher Secondary School, kalakkad is without any basis and



W.P.(MD)No.21424 of 2024

illegal. It is deemed to be considered that she has been continuing as Head Mistress in the Government Higher Secondary School, Thalapathi Samuthiram, in view of the fact that no transfer order issued against the petitioner is subsisting as on date in the eye of law.

7. It is also an admitted fact that the petitioner is going to retire from service on 31.05.2025 on attaining the age of superannuation. It is relevant and appropriate to take into consideration of the Government letter, dated 11.07.1994, wherein, certain instructions are issued to be followed by all departments with respect to the transfers of the Government servants. The relevant portion of the said Government letter is extracted herein under:

“ 2. In continuance of the orders issued in the said G.O. the following further instructions are issued on the transfer policy:-

A person who is due for transfer on completion of three years of service in a seat/post/station need not be transferred to another station if his left-over service before retirement is one year or less. In such case, he should be given a chance of seat/post in the same station, or if that is not possible, and if the post is a non-sensitive one, he may be allowed to continue in the same post until he retires from service on attaining the age of superannuation. However, if the post is a sensitive one and there is no other suitable post in the station then he should be transferred to another station.”



W.P.(MD)No.21424 of 2024

8. Admittedly, the petitioner is left with only four months of service. The purpose of issuing Government letter, dated 11.07.1994 shows that the person, who is going to retire within short span of time should not be disturbed at the fag end of their service. To stipulate that condition the reasons may be that their service records are kept ready by the Department, wherein, they have been working for a period of three years. It appears that in the present case, the said Government guidelines have been clearly violated while transferring the petitioner. Though the petitioner made allegations against the first respondent for transferring her at the fag end of service as vindictive, this Court is not inclined to express any opinion on that aspect at this stage in this case. The intention of this Court is only to do substantial justice to the petitioner at the fag end of her service.

9. For the aforesaid reasons, in the considered opinion of this Court, the petitioner made out strong case warranting interference of this Court by invoking Article 226 of the Constitution of India and to grant relief as prayed for. Accordingly, this writ petition is allowed with the following directions:

1. The impugned order of the first respondent in Na.Ka.No. 043536/W1/E2/2024, dated 27.08.2024, is hereby quashed.



W.P.(MD)No.21424 of 2024

2.The first respondent is directed to revert back the petitioner to the Government Higher Secondary School, Thalpathi Samuthiram, forthwith and allow her to continue her service at the same place till her retirement i.e. on 31.05.2025.

10. No costs. Consequently, the connected miscellaneous petitions are closed.

05.02.2025

NCC:yes/no
Index:yes/no
Internet:yes/no
Sn

To:

- 1.The Director of School Education,
Office of the Director of School Education,
College Road, DPI Complex,
Chennai.
- 2.The Chief Educational Officer,
Office of Chief Educational Officer,
Kokkirakulam,
Tirunelveli.
- 3.The District Educational Officer,
Office of District Educational Officer,
Thirunagar, Tirunelveli Town,
Tirunelveli.



WEB COPY



W.P.(MD)No.21424 of 2024

BATTU DEVANAND, J.

Sn

W.P.(MD)No.21424 of 2024

05.02.2025