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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.02.2025

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.24923 of 2016

and

W.M.P(MD)Nos. 18025 & 18026 of 2016

V. Karpagam

... Petitioner

- Vs. -

1. The Director of Elementary Education,
O/o. the Directorate of Elementary Education Office,
College Road, Chennai-6.
2. The District Elementary Educational Officer,
O/o.The District Elementary Educational Office,
Theni, Theni Disrtrict.
3. The Additional Assistant Elementary Educational Officer,
O/o. the Assistant Elementary Educational Office,
Bodinaikanur, Theni District.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a *Writ of Certiorarified Mandamus*, calling for the



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records relating to the impugned order passed by the 2nd respondent in his proceedings in Na.Ka.No.2022/A2/2015 dated 27.05.2016 and quash the same as illegal and consequentially to direct the respondents to treat the non-employment period as spent on duty and consequently disburse the salary for the period of non-employment within the period that may be stipulated by this Court.

For Petitioner : Mr.C.Venkatesh Kumar, for
Mr.H. Mohammed Imaran

For Respondents : M/s.D. Farjana Ghoushia
Special Government Pleader

ORDER

This Writ petition is filed to quash the impugned order passed by the 2nd respondent in his proceedings in Na.Ka.No.2022/A2/2015 dated 27.05.2016, and consequential direction to the respondents to treat the period of non-employment as duty and consequently disburse the salary for the said period within a time frame to be stipulated by this Court.

2. Heard both sides and perused the material documents available on records.



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3. Initially, the writ petitioner was working as a Head Master in the Panchayat Union Middle School at Kundalnaickanapatti Village, Bodinaikanur Union, Theni District. Subsequently, he was transferred to a Hill station. Again, in 2015, when the respondents considered names for transfer to the hill station based on the seniority list, instead of considering the juniors, the petitioner who had already served in a hill station was issued a transfer order. This transfer order was challenged in W.P.(MD)Nos.14629 of 2015 and 14913 of 2015. The petitioner relied on G.O.Ms. No.404, which provides certain guidelines for issuing transfer orders to hill stations.

4. According to the petitioner, the respondents failed to consider that she had already served in a hill station. Furthermore, there were other staff members available for transfer, but instead of transferring them, the petitioner, despite being a senior was transferred. Aggrieved by this, earlier writ petitions were filed. After hearing arguments of both sides, the Court held that the transfer



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was not justified and set aside the transfer. However, the petitioner did not serve during the interregnum period from 17.08.2015 to 18.04.2016 in any place.

5. It is seen from the records that the petitioner challenged the transfer order in W.P.(MD) No. 14629 of 2015. In the said judgment, it was also recorded that the petitioner had filed the writ petition on 14.08.2015, whereas the transfer order was passed on 16.08.2015.

6. It is a settled proposition that the transfer is incidence of service. However the transfer order made to hill station ought to be in accordance to the guidelines issued in G.O.Ms.No.404. This Court, after considering the same, has already held that the transfer is not in accordance with law. However, there is no stay order in the earlier writ petition, inspite of the same, since the writ petition was allowed, then the said period ought to be considered as duty period, consequently the petitioner is entitled to the benefits for the said period.



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7. Accordingly, this Writ Petition is allowed. The impugned order dated 27.05.2016 in Na.Ka.No.2022/A2/2015, passed by the 2nd respondent, is hereby set aside. The petitioner is entitled monetary benefits for the period from 17.08.2015 to 18.04.2016, in which one month period shall be adjusted as Earned Leave and the remaining period shall be treated as duty period. No costs. Consequently, the connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
KSA

20.02.2025

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S.SRIMATHY, J

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Order made in
W.P.(MD)No. 24923 of 2016

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