(2014) 12 MAD CK 0331

Madras High Court

Case No: Writ Appeal No. 1356 of 2014

V. Elango		APPELLANT
	Vs	
The Director of Elementary Education		RESPONDENT

Date of Decision: Dec. 2, 2014

Hon'ble Judges: Satish K. Agnihotri, J; K.K. Sasidharan, J

Bench: Division Bench

Judgement

1. The appellant filed a writ petition in W.P.No. 21011 of 2011 challenging the seniority list dated 1 January 2009 for the purpose of placing him above the fifth respondent taking into account his initial date of appointment, not withstanding his request for transfer to a different panchayat union where he was placed in the bottom of the seniority list.

The facts:

2. The appellant was appointed as Secondary Grade Teacher, Panchayat Union Elementary School, Kottampetti, Harur Panchayat Union. The appellant was transferred to Pappireddipatti Panchayat Union on 13 June 1990. He was placed as junior most teacher in Pappireddipatti Panchayat Union. The appellant was again transferred on 9 November 2000 to Harur Panchayat Union. There also he was placed as the junior most teacher. The writ petition filed by the appellant to re-fix his seniority in W.P.No. 10342 of 2005 was dismissed by this Court. The appellant thereafter has filed another writ petition in W.P.No. 21011 of 2009 contending that transfer to Pappaireddipatti Panchayat Union and again to Harur were not request transfers and as such he is entitled to maintain his original seniority.

3. Before the Writ Court, the District Elementary Educational Officer filed a counter affidavit contending that the appellant was transferred from Harur Panchayat Union to Pappireddipatti Panchayat Union and thereafter again to Harur Panchayat Union on his request and as such he was rightly placed as junior most teacher in the

seniority list.

4. The learned Single Judge verified the service register and having found that transfers were made pursuant to the request made by the appellant, dismissed the writ petition. The said order dated 26 August 2013 is the subject matter of this intra court appeal.

Submissions:

5. Thiru L. Chandrakumar. learned counsel for the appellant submitted that the appellant never made a request for transfer and as such it was not correct on the part of District Elementary Educational Officer to contend that transfers were made on request and he was rightly placed in the bottom of the seniority list. According to the learned counsel, transfer orders were issued in a printed format meant for general transfer and as such the third respondent erred in making entries in the service register with regard to the nature of transfer.

6. The learned Special Government Pleader by placing reliance on the service register of the appellant contended that the transfer to Pappireddipatti Panchayat Union and re-transfer later were made pursuant to the request made by the appellant. According to the learned Special Government Pleader, the learned Single Judge verified the service register and only after satisfying that transfers were made pursuant to the request made by the appellant dismissed the writ petition.

Discussion:

7. There is no dispute that Harur and Pappireddipatti units are considered as separate units for promotion of teachers. In case a teacher makes a request for transfer to another panchayat union, he/she would be placed in the bottom of the seniority list in the transferred place.

8. The documents available on record and the counter affidavit filed by the District Elementary Educational Officer very clearly show that the appellant submitted an application for transfer to Pappireddipatti Panchayat Union and it was favourably considered by the department. Thereafter, he applied for transfer to Harur Panchayat Union and joined there on 9 November 2000. Since transfers were made pursuant to the request made by the appellant, he was placed in the bottom of the seniority in both the places. We have also verified the service register produced by the learned Special Government Pleader. The service register contained an entry to the effect that transfers were made pursuant to the request made by the appellant. The appellant miserably failed to prove that he was transferred to Pappireddipatti Panchayat Union and later to Harur Union by the Education Department suo motu and it was not a request transfer. The record speaks for itself. We, therefore, do not find any merit in the contention taken by the appellant.

9. In the upshot, we dismiss the intra court appeal. No costs