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M.Dilshad Begam Vs. the District Elementary

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Court : Chennai

Decided On : Feb-21-2012

Judge : Vinod K.Sharma, J.

Acts : Constitution of India - Articles 14

Appeal No. : W.P. No.32059 of 2005 (O.A.No.6159 of 2001)

Appellant : M.Dilshad Begam

Respondent : The District Elementary

Advocate for Def. : Ms.R.Karthikeyan, Adv.

Advocate for Pet/Ap. : Mr.R.Muthukannu, Adv.

Judgement :

Writ petition is filed under Article 226 of Constitution of India for the issuance of a Writ of Certiorified Mandamus calling for the records relating to the orders of the 1st respondent dated 16.05.2001 issued in Ref.No.Na.Ka.No.2736/94/2001 and quash the same and direct the respondents to permit the petitioner to continue as Primary school Head Mistress.

ORDER

1. The petitioner prays for issuance of a writ in the nature of certiorari, to quash the order dated 16.05.2001, reverting the petitioner to the post of Secondary Grade Assistant from the post of Primary School Head Mistress.

2. The translated copy of the impugned order reads as under:

Proceedings Na.Ka.No.2736/A4/2001 dated 16.05.2001 of the District Elementary Educational Officer, Tiruchirappali. Sub: Trichi Urban Range Municipal Gosha Urudu Primary School Tmt.M.Dilshad Begum Head Mistress Request for reversion Reg. Ref: 1.Procs.Na.Ka.No.208/A1/2001 dated 18.04.2001 of the Assistant Elementary Educational Officer, Trichi (Urban Range)

2.Tmt.Dilshad Begum's Application

Tmt.M.Dilshad Begum, working as Head Mistress at Trichy Urban Range Municipal Gosha Urudu Primary School, is reverted from the post of Primary School Head Mistress to the post of Secondary Grade Teacher on the ground of her willingness. Further, her request for relinquishment for promotion to the post of primary school Head Mistress for 3 years, is accepted. Tmt.M.Dilshad Begum, reverted from the post of primary school Head Mistress to the post of Secondary Grade Teacher is ordered to be assumed duty as Secondary Grade Teacher in the existing vacancy in the same school. The Head Master concerned and the Assistant Elementary Educational Officer, are requested to send their reports regarding the relieving from the post of Head Masters and joining in the post of Secondary Grade Assistant. Sd/-XXXX

For District Elementary Educational

Officer, Tiruchirapalli.

3. The petitioner was appointed as the Secondary Grade Assistant (Urudu). In the year 1998 and was promoted as Primary school Head Mistress (Urudu) and posted at the Municipal Urudu Primary School.

4. The husband of the petitioner was working at Karur. Therefore, the petitioner filed application for transfer to Municipal Urudu Primary School at Karur. The

District Elementary Educational Officer, Karur orally informed the petitioner, that a post of Secondary Grade Assistant was available at Karur, where she can be transferred. On the information given by the respondents that the petitioner requested for reversion to the post of Secondary grade assistant, for being transferred to the Municipal Urudu Primary School, Karur.

4. The respondents, on the request of the petitioner, reverted her to the post of Secondary Grade Assistant in the same school, without ordering her transfer to Karur. The petitioner was called for counselling at Karur for appointment as Headmistress, but on account of non-availability of the vacancy, her request of transfer was turned down.

5. The petitioner, therefore, requested the respondents to recall the impugned order, but no action was taken thereon, which forced the petitioner to file Original Application before the Tamil Nadu Administrative Tribunal. The petition was admitted and the impugned order was stayed.

6. Learned counsel for the petitioner challenged the impugned order on the ground, that the act of the respondents in not considering the request of the petitioner for setting aside reversion is arbitrary being violative of article 14 of the Constitution of India as once the request of the petitioner for transfer was not accepted, she could not have been reverted to the post of Secondary Grade Assistant, as the reason for her to opt to be reverted, was to be with her husband at Karur, on transfer.

7. Learned counsel for the State supported the impugned order on the ground that it was on the request of the petitioner that she was reverted to the post of Secondary Grade Assistant, therefore, she is estopped to challenge the order of reversion.

8. On consideration, I find that the stand of the respondent cannot be accepted. The petitioner could only be reverted to the post of Secondary School Teacher, for the purpose of transfer to Karur District, as requested. The request of the petitioner could have been either accepted in totality or rejected in totality, but could not be accepted partly in reverting her but not transferring her to Karur.

9. The request of the petitioner for reversion was only to be with her husband at Karur and not for any other reason.

10. The learned counsel for the petitioner is right in contending, that the impugned order being arbitrary is thus violative of article 14 of the Constitution of India.

11. For the reasons stated this the writ petition is allowed, and impugned order is quashed.

12. No costs.

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