

(2006) 03 MAD CK 0030

In the Madras High Court

Case No : Writ Petition No. 38388 of 2005 and W.P.M.P. No. 41086 of 2005

Mrs. P. Jayalakshmi

APPELLANT

Vs

The Secretary, Social Welfare and Nutrition Programme
Dept., The Collector and The Children Development Planning
Officer, World Bank Aided Children Development Programme

RESPONDENT

Date of Decision : 27-03-2006

Acts Referred:

Citation : (2006) 03 MAD CK 0030

Hon'ble Judges : N. Paul Vasanthakumar, J

Bench : Single Bench

Advocate : S. Baskaran, for the Appellant; D. Malarvizhi, GA, for the Respondent

Judgement

N. Paul Vasanthakumar, J.—The prayer in this writ petition is for issuing a writ of certiorarified mandamus calling for records of the 2nd

respondent relating to the order bearing Na.Ka. No. 20299/2005/Sa.Ou.Thi (2) dated 06.10.2005 and quash the same and direct the

respondents 2 and 3 to transfer the petitioner to the post of the Noon-Meal Organiser, Puthur Government High School, Thalaivasal Union.

2. The facts necessary for the disposal of this writ petition as stated in the affidavit are that the petitioner while working as an Anganwadi worker in

Veeraganur Centre in Thalaivasal Block, was declared as a surplus staff. It is stated that the surplus staff should be transferred to a place within 10

Kilometres. The said direction is issued by the Government in letter No. 159, Social Welfare and Nutrition Programme Department dated

05.11.2002 and in para 4 of the said letter, it is stated that the Anganwadi workers and Noon-meals centre employees are entitled to be

transferred and they shall be posted within 10 Kilometres and till all the surplus

staff are adjusted, no new appointment shall be made.

3. The grievance of the petitioner is that the petitioner is having a family with two children and she has to travel 30 kilometres to work in the new

place and she has to report to duty at 8.30 A.M. and at the time of petitioner's transfer, there were vacancies in Thalaivasal Boys Higher

Secondary School and Pattuthuri Panchayat Union Elementary School and proposals were sent for transferring the petitioner and one Vijaya, who

was working at Nadavular. But, some other persons were transferred to the posts violating the Government orders and circulars. Thereafter, the

petitioner and her husband submitted several representations to transfer the petitioner s per the Government orders. The petitioner is getting

meagre salary of Rs. 1904/- (Rupees One thousand nine hundred and four only) and for travelling, the petitioner has to spend huge amount and

therefore, the petitioner requested to accommodate her in the vacancy in Puthur Government High School, Thalaivasal Panchayat Union. The said

request has not been considered and the petitioner filed W.P.No.26909/2005 for issuing a writ of mandamus directing the respondents to transfer

the petitioner to the post of the Noon-meal Organiser and this Court by order dated 23.08.2005 passed an order by directing the respondents to

pass orders on the basis of the letter dated 05.11.2002.

4. The learned counsel for the petitioner submitted that the petitioner was not given posting within 10 Kilometres as per the Government letter and

the reason given in the impugned order that the petitioner gave her willingness to serve for an earlier transfer cannot be put against the petitioner, in

view of the availability of vacancies in nearby school. The learned counsel also pointed out that the Department also called for applications to fill up

the vacant posts through the local press and the vacancy at Thalaivasal was to be filled up, for which an interview was proposed to be held on

23.08.2005 at 10 A.M. and therefore, the respondents cannot contend that there is no vacancy at Thalaivasal, particularly when there was a ban

order not to appoint fresh candidates till the surplus persons are accommodated in nearby schools.

5. The learned Government Advocate submitted that in view of the earlier letter given pursuant to which the petitioner was given transfer, she is not

entitled to get the said request for transfer within 10 Kilometres.

6. I have considered the rival submissions made by the learned counsel for the petitioner as well as the learned Government Advocate appearing

for the respondents. The letter dated 05.11.2002 is very clear that the persons working in Anganwadi and Noon-Meals centre need to be

integrated and surplus staff in Anganwadi shall be posted in Noon-Meals centre and such persons should be posted within 10 Kilometres from

their place of residence and till all the persons are accommodated as per the said Government letter, no new appointment shall be made in view of

the said Government order and having regard to the calling for applications to fill up the posts in Thalaivasal Union, as found in Page 12 of the

typed set, I am of the view that the respondents has not followed the said Government letter and issued the impugned order without any basis.

Hence, the impugned order is set aside and the petitioner is directed to be accommodated in the Noon-Meals centre at Puthur Government High

School, Thalaivasal Panchayat Union, Salem District or in any one of the Noon-Meals centres in Thalaivasal Panchayat Union within a period of

four weeks from the date of receipt of a copy of this order.

7. With the above direction, the writ petition is disposed of. No costs. Consequently, connected W.P.M.P. is closed.