



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.10.2015

CORAM:

THE HONOURABLE Mr. JUSTICE T. RAJA

W.P. (MD) No. 19408 of 2015

and

M.P. (MD) Nos. 1 and 2 of 2015

K. Mahimaiddass

... Petitioner

Vs.

1. The Director of School Education,
DPI Campus,
College Road,
Chennai 600 006.

2. The Director of School Education (Personal),
DPI Campus,
College Road,
Chennai 600 006.

3. The Chief Educational Officer,
Madurai District.

4. The District Educational Officer,
Madurai 627 001.

5. The Correspondent,
Lourdu Annai Girls Higher Secondary School,
K. Pudur, Madurai District.

... Respondents

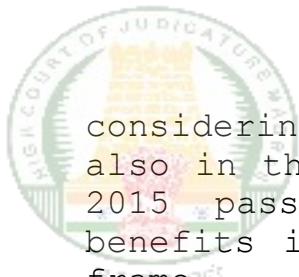
PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 4 to approve the appointment of the petitioner in the post of Night Watchman in the 5th respondent school from the date of appointment on 04.02.2013 by passing appropriate orders on the proposal submitted by the 5th respondent dated 03.09.2013, in the light of the orders passed in W.A. No. 1256 of 2015 dated 09.09.2015 with all consequential attendant benefits including arrears of salary with interest within a time frame.

For Petitioner : Mr. G. Sankaran

For Respondents : Mr. T. S. Md. Mohideen, AGP for R1 to 4

O R D E R

This Writ petition has been filed by the petitioner viz., K. Mahimaiddass, seeking an order to issue a Writ of Mandamus, directing the respondents 1 to 4 to approve the appointment of the petitioner in the post of Night Watchman in the 5th respondent school from the date of appointment ie., on 04.02.2013 by



considering the proposal of the 5th respondent dated 03.09.2013 and also in the light of the order dated 09.09.2015 in W.A.No.1256 of 2015 passed by this Court with all consequential attendant benefits including arrears of salary with interest within a time frame.

WEB COPY

2.Mr.T.S.Mohamed Mohideen, learned Additional Government Pleader takes notice for the respondents 1 to 4. By consent, the Writ petition itself is taken up for final disposal.

3.The petitioner has been appointed as Night Watchman in a regular sanctioned post by a proceedings dated 04.02.2013 on account of retirement of one Mr.Abragam, who served in the 5th respondent school from 05.03.1982 and the petitioner has been continuously serving without any complaint. In this regard, the 5th respondent School has sent a proposal dated 03.09.2013 to the District Educational Officer, Madurai, the 4th respondent herein. But the same has not been considered on the ground that without getting prior permission from the respondents, the said appointment has been made.

4.The learned counsel for the petitioner would submit that in a similar circumstances when a person was appointed in a sanctioned post as a Record Clerk in Cresent Higher Secondary School, Avaniapuram, Thanjavur District, which is a minority school, this Court in W.P.(MD)No.17356 of 2014 by order dated 27.11.2014 has held that there is no statutory prescription requiring prior sanction before filling up the sanctioned post. When the said order was put under challenge before the Hon'ble Division Bench of this Court in W.A.(MD)No.1256 of 2015, the Hon'ble Division Bench by order dated 09.09.2015 dismissed the said Writ Appeal, confirming the order passed by the learned Single Judge, reiterating the stand that there is no statutory prescription requiring prior sanction before filling up the sanctioned post in the minority school. As the issue has become final, the respondent once again cannot reopen the same. I find merit in the submission made by the learned counsel for the petitioner.

5.The learned Government Advocate (Crl.side) appearing for the respondents 1 to 4 submitted that the proposal of the petitioner may be considered in the light of the observation made by the Hon'ble Division Bench of this Court in the above said Writ Appeal in W.A. (MD)No.1256 of 2015.

6.Recording the said statement as the issue has been well settled, the respondents 3 and 4 are hereby directed to consider the proposal dated 03.09.2013 and pass suitable orders within a period of four weeks from the date of receipt of a copy of this order.



7.It is brought to the notice of this Court by the learned counsel for the petitioner that in view of the delay caused by the respondents 3 and 4 in approving the appointment of the petitioner, the petitioner is facing threat of non employment.

8.In view of the said submission made by the learned counsel for the petitioner, till the order passed by the respondents 3 and 4, the service of the petitioner as Night Watchman shall not be disturbed.

9.The Writ petition is disposed of accordingly. No costs. Consequently, connected M.Ps.are closed.

Sd/-

Assistant Registrar(Per.Admn)

/True Copy/

Sub-Assistant Registrar

To

1.The Director of School Education,
DPI Campus,
College Road,
Chennai 600 006.

2.The Director of School Education (Personal),
DPI Campus,
College Road,
Chennai 600 006.

3.The Chief Educational Officer,
Madurai District.

4.The District Educational Officer,
Madurai 627 001.

+One cc to M/s.G.Sankaran, Advocate, SR.No.63018

+One cc to Mr.T.Chandrasekaran, Advocate, SR.No.63062

+One cc to The Special Government Pleader, SR.No.63187

nbj

RL/8c/SK/SKN/17/11/2015

W.P. (MD) No.19408 of 2015