

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.38972 of 2016

M.Shajahan

... Petitioner

vs.

1. The Director of School Education,
DPI Campus, College Road,
Chennai 600 006.
2. The Chief Educational Officer,
Thanjavur District,
Thanjavur.
3. The District Educational Officer,
Kumbakonam,
Thanjavur District.
4. The Correspondent,
Shaukathul Islam (B.M.S.) Higher Secondary School,
Valoothoor 614 210,
Papanasam Taluk,
Thanjavur District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the respondents 1 to 3 to pass orders for approval of appointment in the post of PG Assistant (Maths) in the 4th respondent School from the date of appointment on 22.06.2015, based on the proposal forwarded by the 4th respondent School, dated 20.07.2015 with all consequential and other attendant benefits, within a time frame.

For Petitioner : Mr.G.Sankaran
For Respondents : Mr.K.Dhananjayan,
Special Government Pleader

O R D E R

The petitioner has come up with this Writ Petition seeking a direction to respondents 1 to 3 to pass orders for approval of his appointment in the post of PG Assistant (Maths) in the 4th respondent School from the date of appointment on 22.06.2015,

based on the proposal forwarded by the 4th respondent School, dated 20.07.2015 with all consequential and other attendant benefits, within a time frame.

2. According to the petitioner, he is qualified with M.Sc. (Maths) and B.Ed. and is eligible for appointment to the post of PG Assistant (Maths). He was selected and appointed as PG Assistant (Maths) in the 4th respondent School, a Government Aided Minority Institution, as per the order of the 4th respondent, dated 22.06.2015 in the regular sanctioned vacancy which arose due to the retirement of the incumbent, Thiru.S.M.Gauthal Alam, on 28.02.2015.

3. Consequent to his appointment, the 4th respondent forwarded the proposal to the 3rd respondent seeking approval of the petitioner's appointment in the post of PG Assistant (Maths) with effect from 22.06.2015. However, the proposal forwarded by the 4th respondent School was returned by the proceedings of the 3rd respondent, dated 08.09.2015, stating that there is a case filed by one O.P.A. Basheer Ahamed in W.P.(MD) No.19723 of 2014 and O.S.No.110 of 2015 against the School Management on the file of this Court and Sub Court, Kumbakonam, respectively and therefore, the proposal for approval of appointment cannot be considered.

4. It is his further submission that the said O.P.A. Basheer Ahamed, claiming to be a member of School Committee filed W.P.(MD) No.19723 of 2014 before this Court on the premise that one K.E.P.Mohamed Ali, who is the Correspondent of the 4th respondent/School had purchased the property in his name and constructed the building thereon, which is against the School Committee and by-law and accordingly, prayed for a direction to the official respondents to take action against him. Apart from that, he also filed a Civil Suit before the Additional Sub Court, Kumbakonam in O.S.No.110 of 2015 for the same relief. It is the case of the petitioner that the pendency of the above stated cases would not come in the way of granting of approval of his appointment made in the regular sanctioned post. His grievance is that though he is appointed as PG Assistant in the 4th respondent School in the regular sanctioned vacancy on 22.06.2015, he has not been paid salary from the date of his appointment for want of approval from the Department. Hence, having no other alternative, the petitioner is before this Court.

5. When the matter is taken up for consideration, learned counsel for the petitioner submitted that there is no interim order against the 4th respondent/School either in the said Writ Petition or in the Civil Suit and such being the position, there is no impediment for the 3rd respondent to consider the

proposal forwarded by the 4th respondent to approve the appointment of the petitioner. Thus, he prayed for a direction to the respondents 1 to 3 to consider the proposal sent by the 4th respondent/School for approval of appointment of the petitioner as P.G. Assistant (Maths) and pay him the salary due to him.

6. Heard the learned counsel on either side.

7. Keeping in mind the submissions made by the learned counsel for the parties, this Court finds that when there is no interim order against the 4th respondent/School both in the Writ Petition filed before this Court as also in the Civil Suit filed before the Sub Court, Kumbakonam, there is no legal impediment for the respondents 1 to 3 to consider the proposal forwarded by the 4th respondent/School with regard to grant of approval of the appointment of the petitioner as P.G. Assistant (Maths).

8. In view of the above, the 4th respondent/School is directed to represent the proposal with regard to grant of approval of the petitioner's appointment as P.G. Assistant (Maths) to the 3rd respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the 3rd respondent is directed to pass appropriate orders on merits and in accordance with law within a period of four weeks.

This Writ Petition is disposed of with the above direction. No costs. Consequently, connected W.M.P.No.33403 of 2016 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:

1. The Director of School Education,
DPI Campus, College Road,
Chennai 600 006.
2. The Chief Educational Officer,
Thanjavur District,
Thanjavur.

3. The District Educational Officer,
Kumbakonam,
Thanjavur District.
4. The Correspondent,
Shaukathul Islam (B.M.S.) Higher Secondary School,
Valoothoor 614 210,
Papanasam Taluk,
Thanjavur District.

+lcc to Mr.G. Sankaran, Advocate, S.R.No.64869
+lcc to the Government Pleader, S.R.No.64963

(CO)
md(18/11/2016)

W.P.No.38972 of 2016



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