

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.40526 of 2016

and

W.M.P.No.34550 of 2016

S.Daniel Beno Prashanth Petitioner
vs.

1. The Chief Educational Officer,
Cuddalore.
2. The District Educational Officer,
Cuddalore.
3. The Secretary,
Church Board,
Arcot Lutheran Church,
Cuddalore.
4. The Correspondent,
Danish Mission Higher Secondary School,
Nellikuppam,
Panruti Taluk,
Cuddalore District. Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the respondents 1 and 2 to approve the appointment of petitioner as Physical Director in the Danish Mission Higher Secondary School, Nellikuppam, Panruti Taluk, Cuddalore District, with effect from 01.06.2016 and consequently directing respondents to pay petitioner salary due to him, including arrears of salary.

For Petitioner :	Mr.R.Gururaj
For Respondents :	Mr.V.Anandhamoorthy,
(R1-R2)	AGP (Education)

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a Writ of Mandamus, directing the respondents 1 and 2 to approve the appointment of petitioner as Physical Director in the 4th respondent school with effect from 01.06.2016 and consequently direct to pay the salary including arrears.

3. It is the case of the petitioner that the 4th respondent school is a Government aided school, which is managed by the 3rd respondent. One post of Physical Director and 2 posts of Physical Education teacher has been sanctioned to the school. The petitioner was chosen for appointment for the post of Physical Education teacher, in the place of Daisy Rani, who was about to retire in the 4th respondent school. However, she opted to continue the work during the superannuation period. Hence, the petitioner was given appointment order, but, as a voluntary appointee with effect from 20.01.2016 and the communication was sent on 27.01.2016.

4. As his initial appointment was a voluntary one, he worked as a Physical Education Teacher without salary and appointment order says so. By communication dated 25.02.2016, the petitioner was appointed as Physical Education Teacher in her place. Until, the said Daisy Rani retired in the month of 2016, the petitioner worked without salary.

5. In the meantime, the Physical Director, namely, V. Joseph Jayaran retired. Therefore, by communication dated 05.05.2016, the 3rd respondent appointed the petitioner as a Physical Director. Ever since, 01.06.2016, he is working as a Physical Director under the respondents 3 and 4. Only on approval by the respondents 1 and 2, salary will be paid to the petitioner. However, till date approval has not been granted. Since the petitioner was appointed in the place of a retired employee and the post is also a sanctioned one, there is no impediment to the respondents 1 and 2 to approve his appointment. Hence, the petitioner sent a representation dated 05.11.2016 to the respondents for approval of his appointment and to pay his salary. But, till date no action has been taken. Hence, the petitioner has come forward with the present petition.

6. The learned counsel for the petitioner submitted that the petitioner has sent the proposal to the 3rd respondent for the approval of his appointment, no order was passed.

7. In view of the order that is going to be passed, there is no need for this Court to issue notice to the respondents.

8. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court, without going into the merits of the claim of the petitioner, directs the third respondent to send a reminder to the respondents 1 and 2 within a period of two weeks from the date of receipt of a copy of this order, and on receipt of the same, the respondents 1 and 2 are directed to consider the same and pass appropriate order within a period of four weeks thereafter.

9. With the above direction, this petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Chief Educational Officer,
Cuddalore.
2. The District Educational Officer,
Cuddalore.
3. The Secretary,
Church Board,
Arcot Lutheran Church,
Cuddalore.

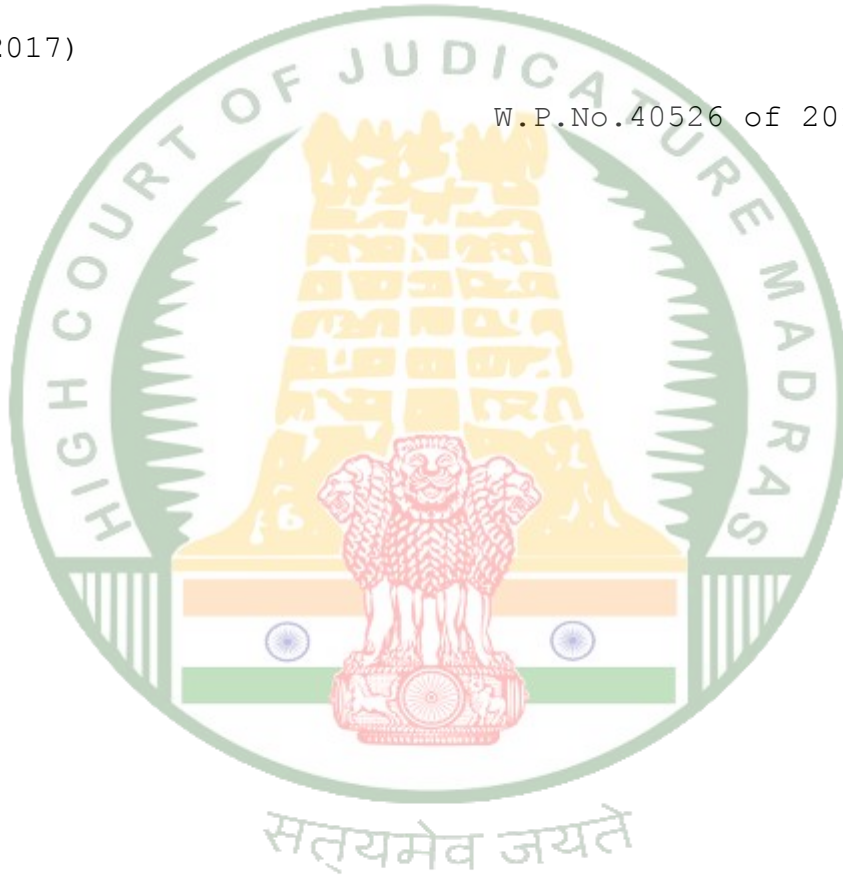
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4. The Correspondent,
Danish Mission Higher Secondary School,
Nellikuppam,
Panruti Taluk,
Cuddalore District.

+lcc to Mr.R. Gururaj, Advocate, S.R.No.67452

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