



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P (MD) No.11577 of 2016

and

WMP (MD) No.8862 of 2016

N.Ramesh

.. Petitioner

vs.

1.The Secretary to Government,
Education Department,
State of Tamil Nadu,
St. Fort George, Chennai-9.

2.The Director of School Education,
College Road, Chennai -6.

3.The District Educational Officer,
Tenkasi.

4.The Correspondent,
Pulingudi Sennaithalaivar Hr. Sec. School,
Pulingudi,
Tirunelveli District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus to call for the records in respect of the order passed by the third respondent in OM.U.No.1807/B3/2016, dated 15.06.2016 and quash the same and consequently direct the third respondent to approve the appointment of the petitioner as Junior Assistant at fourth respondent and disburse all the service and monetary benefits from 24.04.2016 in accordance with the provisions of Tamil Nadu Private Schools Regulation Act and Rules.

For Petitioner : Mr.S.Chellapandian

For Respondents : Mr.T.S.Mohammed Mohideen,

Additional Government Pleader

ORDER

Aggravated by the impugned order refusing to grant approval to the appointment of the petitioner, the petitioner has approached this Court to quash the same.



2. Mr.T.S.Mohammed Mohideen, learned Additional Government Pleader takes notice for the respondents.

3. The petitioner had applied for the Post of Junior Assistant that fell vacant in the fourth respondent school and subsequently, he was appointed as Junior Assistant on 24.04.2016 in the sanctioned Post in the place of one Mr.Radhakrishnan, who was promoted to the Post of B.T.Assistant in the same school on 08.02.2016. The said Post is claimed to be a sanctioned Post. Since the petitioner has been discharging his duty with due care and proper dedication to the satisfaction of his superior and the said Post has also been sanctioned in the fourth respondent school, the management sent a proposal to the third respondent seeking approval to get grants-in-aid with respect to the said Post. However, the third respondent rejected the said proposal on 24.03.2016 and subsequently, the impugned order has been passed on 15.06.2016.

4. But the crux of the contention made by the learned counsel for the petitioner shows that the issue whether prior permission is required to appoint any non-teaching staff in an already sanctioned Post, in any private aided school, has already been answered by this Court in a reported judgment in **Deva Asir vs. The Secretary to Government and others** reported in **2016-3-L.W.152** and yet another Division Bench judgment of this Court in **P.Ravichandran v. State of Tamil Nadu and others** reported in **(2013) 7 MLJ 641**, is also clearly covered the issue holding that to fill up any sanctioned Post, subsequently fell vacant in any school, the question of seeking approval of appointment of non-teaching staff, is no longer required. Following the same, I have also disposed of W.P(MD)No.10233 to 10235 and 10385 of 2016, vide order dated 22.06.2016.

5. It is hereby mentioned that to fill up a sanctioned post in any minority or non-minority educational institution, whether teaching or non-teaching staff, no doubt, approval from the Education Department is *sine qua non* to fill up the said Post, but prior permission is not required. Therefore, appointment of the petitioner in the Post of Junior Assistant on 24.04.2016 in the fourth respondent school has to be approved by the third respondent since he was appointed in a sanctioned post.

6. In the result,

(i) the Writ Petition is allowed.

(ii) Accordingly, the impugned order is set aside.

(iii) The third respondent is directed to approve the appointment of the petitioner in the fourth respondent school and disburse the salary, within a period of six weeks from the date of receipt of a copy of this order.



No Costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Education Department,
State of Tamil Nadu,
St. Fort George, Chennai-9.
- 2.The Director of School Education,
College Road,
Chennai -6.
- 3.The District Educational Officer,
Tenkasi, Tirunelveli District.
- 4.The Correspondent,
Pulingudi Sennaithalaivar Hr. Sec. School,
Pulingudi, Tirunelveli District.

+1cc to Spl.Government Pleader Sr.No.34772
+1cc to Mr.S.CHELLAPANDIAN Advocate Sr.No.35021
pm
AA/ARK-PV/18.07.2016/3p-7c

W.P. (MD) No.11577 of 2016
04.07.2016