



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD) .No.16012 of 2016

M.Kiran Kumar

...Petitioner

Vs.

1.The State of Tamil Nadu,
rep. By its Secretary to Government
School Education Department
Secretariat, Chennai-9.

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

3.The Chief Educational Officer,
Nagercoil, Kanyakumari District.

4.The District Educational Officer,
(*)Kuzhithurai,
Kanyakumari District.

5.The Correspondent,
Amsi High School,
Thengapattanam Post,
Kanyakumari District.

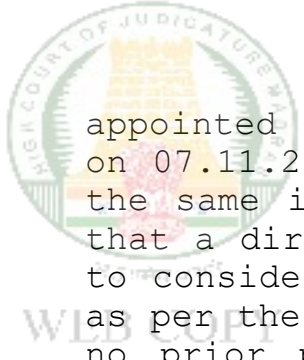
...Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus directing the 4th respondent to regularize the service of the petitioner as Junior Assistant from the date of his appointment that is from 07.11.2007 to 31.05.2009 by considering proposal of the 5th respondent dated 31.01.2011 and to grant the service benefits and to disburse all the monetary benefits in consequent to the same by considering the reminder proposal of the 5th respondent dated 03.06.2016.

For petitioner : Mr.S.C.Herold Singh
For Respondents : Mr.Aaiyiram K.Selvakumar
Govt.Advocate

ORDER

The petitioner was appointed as Junior Assistant on 07.11.2007 in the fifth respondent school against a vacancy arose due to the retirement of one Amsi Mukundan Nair, on 31.10.2007. The petitioner made an application to the 5th respondent School. Subsequently, his services were also regularized by an order, dated 01.06.2009, passed by the 4th respondent herein/District Educational Officer, **(*)Kuzhithurai**. As the petitioner was



appointed in a sanctioned vacancy, the school had sent a Proposal on 07.11.2007, in letter No.102, to the fourth respondent. Since the same is pending for quite a long time, the petitioner pleads that a direction may be issued by this Court to the 4th respondent to consider and pass appropriate orders. It is also stated that, as per the Tamil Nadu Recognized Private Schools (Regulation) Act, no prior permission is required to fill up the post of Junior Assistant in an Aided Minority Institution. Admittedly, the fifth respondent is a Aided Minority Institution. This Court in various judgments, consistently issued directions to the Education Department to pass appropriate orders granting approval, if any appointment is made against a sanctioned post, in a Minority Institution.

2. Mr.Aaiyiram K.Selvakumar, appearing for the fourth respondent, sought time to consider the proposal sent by the fifth respondent.

3. It is not in dispute that the fifth respondent school is an Aided Minority Institution and that the petitioner was appointed in the sanctioned vacancy arose due to the retirement of one Amsi Mukundan Nair. While considering a similar issue, this Court, by following a Division Bench judgment in P.Ravichandran Vs. State of Tamil Nadu, (2013 (7) MLJ 641), clearly held that there is no requirement for getting prior permission to fill up any sanctioned vacant post in an aided minority institution. Hence, this Court is of the view that a similar direction can be issued to the fourth respondent, with whom the proposal sent by the fifth respondent/school is pending.

4. Accordingly, the fourth respondent herein/District Elementary Officer, **(*)Kuzhithurai**, Kanyakumari District, is directed to consider the proposal, dated 31.01.2011, sent by the fifth respondent school, and pass appropriate orders granting approval, within a period of four weeks from the date of receipt of a copy of this order. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-
26.08.2016

**(*)Amended as per order dated.20.10.2016
made in WMP(MD)No.13934/2016
in WP(MD)No.16012/2016 by SVJ)**

Sd/-
Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar(CS)
Madurai Bench of Madras High Court,
Madurai-23.



To

(*)To be substituted for the order already despatched.

- 1.The Secretary to Government
State of Tamil Nadu,
School Education Department
Secretariat, Chennai-9.
- 2.The Director of School Education,
College Road, Chennai.
- 3.The Chief Educational Officer,
Nagercoil, Kanyakumari District.
- 4.The District Educational Officer,
(*)Kuzhithurai,
Kanyakumari District.
- 5.The Correspondent,
Amsi High School,
Thengapattanam Post, Kanyakumari District.

Copy to : The District Educational Officer,
Thuckalay, Kanyakumari District.
(for information)

+1cc to M/S Special Government Pleader, Sr No. 47721
+1 cc to Mr.H.C.HEROLD SINGH, Advocate, Sr.No: 47921

JAM/SKS-RR/23.09.16/ 3P-8C

W.P (MD) .No.16012 of 2016

26.08.2016

PBK/CK/SAR-3 21/10/2016 ::3P-9C:(IT)