

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.6128 of 2017

C.Moses Immanuel

...Petitioner

-vs-

1. The Principal
Sainik School
Amaravathinagar
Udumalpet 642 102

2. Quarter Master
Sainik School
Amaravathinagar
Udumalpet 642 102

...Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records relating to the order dated 03.10.2016 in No.SSA/75/A on the file of the Principal, Sainik School, Amaravathinagar, the first respondent herein and quash the same and consequently direct the respondent to reinstate the petitioner as Lower Division Clerk at Sainik School, Amaravathinagar with all attendant benefits.

For Petitioner :: Mr.A.V.Arun

ORDER

The petitioner has filed this writ petition, being appointed to the post of Lower Division Clerk in the respondent School by order dated 27th April, 2015 and put on probation for a period of one year extendable to two years, challenging the correctness of the impugned order dated 3.10.2016 terminating him from the services.

2. Learned counsel for the petitioner submitted that when the petitioner was appointed to the post of Lower Division Clerk by order dated 27th April, 2015 specifically making it clear that he would be on probation for a period of one year, extendable to two years, and on successful completion of

probation period he may be considered for confirmation in the post, the impugned order terminating his services cannot be construed as an order of termination simpliciter. The reason is that as his services have been found to be unsatisfactory by the school management, this would definitely cause disqualification for him to seek future employment in any other place. Therefore the law demands a proper enquiry to be conducted, which has not been followed. In view thereof, the impugned order is liable to be interfered with.

3. I do not find merits in the submissions made by the learned counsel for the petitioner. The reason is that when the petitioner was appointed to the post of Lower Division Clerk in the respondent school in the pay of Rs.5830/- with Grade Pay of Rs.1900/-, Transport Allowance of Rs.400/- per month plus Dearness Allowance as admissible in the scale of PB 1 Rs.5200-20200+GP 1900 and other allowances as admissible under the Sainik Schools Society's Rules and Regulations, he was put on probation for a period of one year extendable to two years. The appointment order dated 27th April, 2015 also further makes it clear that on successful completion of the probation period, he may be considered for confirmation in the post and during the period of probation, the appointing authority may terminate his services without assigning any reason. Therefore, when it is an admitted case of probation and the petitioner has been visited with the impugned order mentioning that his services are not satisfactory and hence his services are terminated, in my considered opinion, cannot be construed that it is a punitive order and it would cause disqualification for his future employment, for which a notice of enquiry should be issued and thereupon an enquiry should be held. When the petitioner's performance is to be rated during the period of probation and the terms of appointment also say that the employer is entitled to terminate his services on the ground of non-satisfactory performance, in the present case, in tune with the terms and conditions mentioned in the original appointment order, the impugned order has been passed not satisfied with his performance. Therefore, this Court, considering the fact that he was a probationer and he has been visited with the order of termination, is not inclined to interfere with the impugned order.

4. The learned counsel for the petitioner, however, requested this Court to clarify that the future employment chances of the petitioner in any place cannot be blurred by the impugned order.

5. Considering the factor that the impugned order is not a well speaking order, which is an order of simpliciter, the petitioner may not find any disqualification for his future employment. The writ petition is, accordingly, dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ss

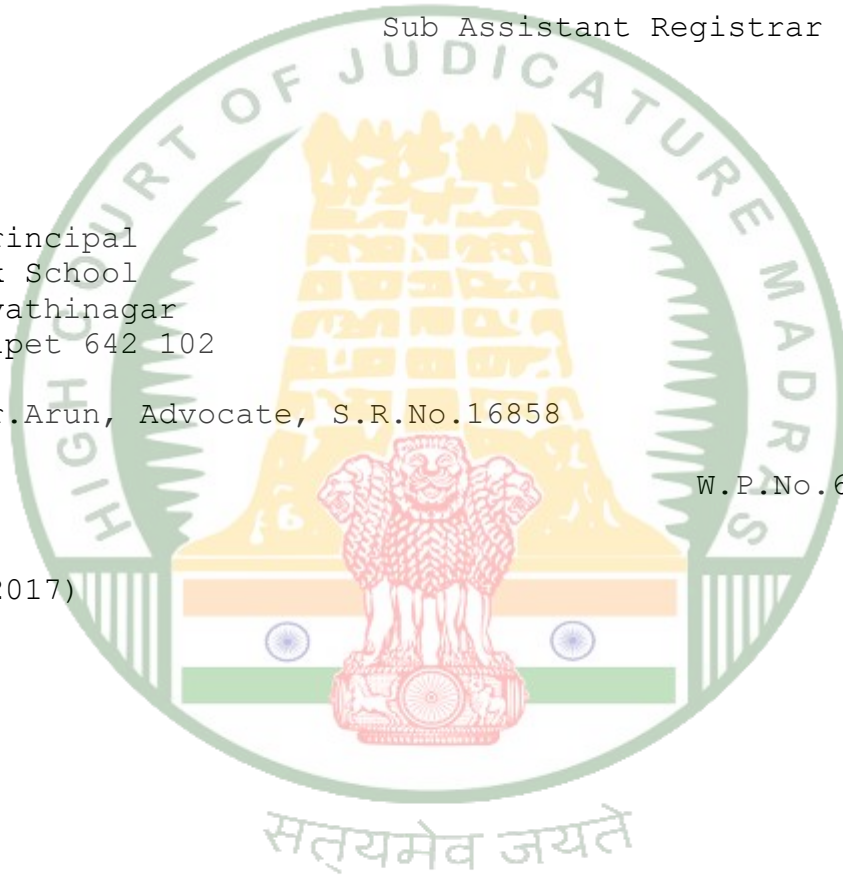
To

The Principal
Sainik School
Amaravathinagar
Udumalpet 642 102

+1cc to Mr.Arun, Advocate, S.R.No.16858

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NRJ (CO)
RS (04/04/2017)



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