

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2017

CORAM:

THE HONOURABLE Mr. JUSTICE T.RAJA

W.P.No.7515 of 2017
and WMP.Nos.8200 & 8201 of 2017

T.Franklin

.. Petitioner

Vs.

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

2.The Chief Educational officer,
Erode District,
Erode.

3.The District Educational Officer,
Erode District,
Erode.

4.The Correspondent,
C.S.I.Boys Higher Secondary School,
Erode District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus, calling for the records relating to the third respondent in O.Mu.No.6365/B2/2015, dated nil-11-2016 and quash the same, consequently direct the respondents 1 to 3 to approve the appointment of the petitioner as Office Assistant with effect from the date of his original appointment i.e., 31.10.2016 and pay the salary.

For Petitioner : Mr.K.Sathish Kumar

For Respondents : Mr.P.Sanjay Gandhi

Additional Government Pleader [R1 to R3]

ORDER

The petitioner has filed this Writ Petition to quash the proceedings of the third respondent in O.Mu.No.6365/B2/2015, dated 30-11-2016 and a direction to the respondents 1 to 3 to approve the appointment of the petitioner as Office Assistant

with effect from the date of his original appointment i.e., 31.10.2016 and to pay the salary.

2. The case of the petitioner is that the fourth respondent school is a religious minority school controlled by the C.S.I. Diocese, Coimbatore, having classes from 6th to 12th standard with present strength of 715 students. It is a Government aided school with a sanctioned strength of 47 staff, both teaching and non-teaching. The petitioner who has passed 10th standard was appointed in the fourth respondent school on 31.10.2016, in the post of Office Assistant, which is a sanctioned post, by the Management Committee of the fourth respondent. The said post remained vacant, from 31.08.2015 due to the retirement of one Mr.M.Yovan from service on attaining the age of superannuation. Thereafter, on 03.11.2016, the fourth respondent sent a proposal to the third respondent for approval of the petitioner's appointment with effect from 31.10.2016 enclosing all relevant records, insisting the necessity of Office Assistant to look after the daily official work. The third respondent, the District Educational Officer, Erode, vide proceedings O.Mu.No.6365/B2/2015, dated 30.11.2016, has rejected the said proposal stating that permission must be obtained from the Government with regard to filling up the non-teaching sanctioned post. It is also mentioned in the proceedings that when cases filed with regard to approval for appointment of other category of non-teaching staff in sanctioned post are pending, no approval can be granted for the appointment of the petitioner. Challenging the said impugned order, the petitioner has come forward with the present writ petition.

3. The learned counsel for the petitioner placing reliance on the decision of this Court in W.P.(MD) No.11481 of 2008 [Deva Ashir Vs. Secretary to the Government, School Education Department, Chennai & Others] in [2016 (3) LW 152], has contended that for filling up the vacancy of the sanctioned post in a minority educational institution, no prior permission is required from the Government and hence the impugned order is liable to be set aside.

4. Mr.P.Sanjay Gandhi, learned Additional Government Pleader takes notice for the respondents 1 to 3 and sought eight weeks time to consider the claim made by the petitioner.

5. This Court, considering the limited relief sought for in this writ petition, without going into the merit of the case, directs the petitioners to make a fresh representation to the respondents within a period of one week and thereupon, on receipt of the same, the respondents 1 to 3 are directed to consider the representation of the petitioner and pass appropriate orders, on merits and in accordance with law, with a period of two months from the date of receipt of a copy of this

order.

6. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To:

1. The Director of School Education
College Road,
Chennai -6.
2. The Chief Educational officer,
Erode District,
Erode.
3. The District Educational Officer,
Erode District,
Erode.

+1 CC to Mr.S. Sathish Kumar, sr 19244
+1 CC to Govt. Pleader sr 19637

W.P.No7515 of 2017

GJII (CO)
sp/8/5

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