

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2017

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.7984 of 2017

D.Dilli Babu

.. Petitioner

Vs

- 1.The State of Tamil Nadu,
Rep. By its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai - 600 009.
 - 2.The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.
 - 3.The District Educational Officer,
Chennai Central,
Chennai - 600 015.
 - 4.The Correspondent,
Santhome Higher Secondary School,
No.143, Santhome High Road,
Mylapore, Chennai - 600 004.
- .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus to direct the respondents 1 to 3 to approve the appointment of the petitioner in the regular sanctioned post of Sweeper in the fourth respondent School from the date of appointment on 01.07.2013 and to make the payment of salary with interest and other service benefits, within a time frame.

For petitioner : Mr.G.Sankaran
For Respondents : Mr.K.Rajendraprasad, GA

O R D E R

By way of filing this writ petition, the petitioner seeks a direction to the respondents 1 to 3 to approve his appointment in the regular sanctioned post of Sweeper in the fourth respondent School from the date of his appointment on 01.07.2013 and to make the payment of salary with interest and

other service benefits

2. Heard the learned counsel appearing on either side.

3. It is submitted by the learned counsel for the petitioner that the petitioner was appointed as Sweeper in the fourth respondent School, which is a Religious Minority Aided School receiving grant-in-aid from the State Government for the teaching and non-teaching staff working in the said School. When a vacancy to the post of Sweeper arose due to the retirement of one Mr.A.G.Premachandran with effect from 30.06.2013, the petitioner was appointed in the said vacant post by the fourth respondent vide his proceedings dated 01.07.2013. Thereafter, the fourth respondent school has also forwarded a proposal to the third respondent / the District Educational Officer, Chennai, seeking approval of his appointment in the post of Sweeper with effect from 01.07.2013. However, such proposal was returned by the third respondent stating that the post of non-teaching staff can be filled up only after obtaining the permission from the first respondent.

4. In a similar circumstances, this Court in W.A.No.1077 of 2009, dated 25.01.2011, dismissed the writ appeal filed by the Government confirming the order of the learned Single Judge directing the Government to grant approval of the appointment of the petitioner therein, who was appointed in a vacant post due to the retirement of one Mr.S.Eliasnathan.

5. I have also had an occasion to deal with a batch of writ petitions in B. Arul Ananda Ganesh and another vs. The Secretary to Government, Education Department, State of Tamil Nadu, St. Fort George, Chennai - 9 and others, wherein too, the issue was precisely the same as in the instant case. In the said judgment, following the judgment of a Division Bench of this Court in P. Ravichandran vs. State of Tamil Nadu and others, it was held as under:

"3. A cursory reading of the aforementioned Hon'ble Division Bench judgment in (2013) 7 MLJ 641, clearly shows that the issue raised in the present writ petitions, is no longer res integra, because, the Hon'ble Division Bench of this Court in the aforementioned judgment has also made it clear that there is no requirement under the Tamil Nadu Private Colleges (Regulation) Act, 1976 and Tamil Nadu Private Colleges (Regulation) Rules, 1976, to seek prior permission to fill up any vacant post in an aided college, which has already been sanctioned for the academic year by the Director of Collegiate Education under Rule 11(1) of the Rules.

4. Therefore, the issues raised in the present writ petitions having been settled by this Court, I have no hesitation to accept the prayer made by the petitioners.

5. In the result, the writ petitions are disposed of with a direction to the respondents to approve the appointment of the petitioners in the fourth respondent school and to sanction grant, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous petitions are closed."

6. Therefore, since the petitioner, in the case on hand, was also appointed in a sanctioned post due to the retirement of one Mr.A.G.Premachandran as Sweeper with effect from 01.07.2013 and thereafter, a proposal was also sent by the fourth respondent seeking approval of his appointment, the third respondent ought not to have returned the proposal, as he was admittedly appointed against a retirement vacancy that arose due to the retirement of one Mr.A.G.Premachandran.

7. Hence, by following the above said judgment, this Court hereby directs the third respondent to approve the appointment of the petitioner from the date of his appointment and to pay all monetary benefits. The third respondent is directed to complete the said exercise within a period of six weeks from the date of receipt of a copy of this order.

8. In fine, the writ petition is disposed with the above direction. No Costs. Consequently, WMP.No.8725 of 2017 is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Principal Secretary to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2.The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.

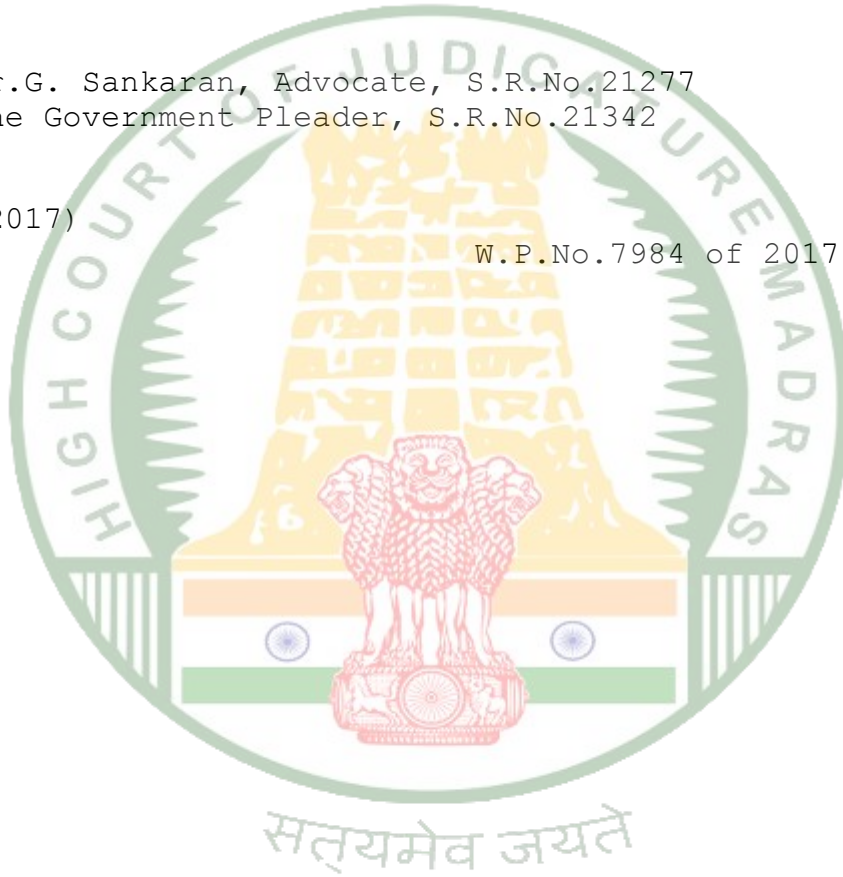
3.The District Educational Officer,
Chennai Central,
Chennai - 600 015.

4.The Correspondent,
Santhome Higher Secondary School,
No.143, Santhome High Road,
Mylapore, Chennai - 600 004.

+1cc to Mr.G. Sankaran, Advocate, S.R.No.21277
+1cc to the Government Pleader, S.R.No.21342

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md(24/04/2017)

W.P.No.7984 of 2017



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