

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.1234 of 2015

T.Karunakaran

... Petitioner

Vs.

1. The State of Tamilnadu,
rep. by the Secretary,
Educational Department,
Fort St. George,
Chennai - 600 009.
2. The Joint Director of School
Education (Secondary)
College Road, Chennai - 600 006.
3. The Chief Educational Officer,
Tirupur.
4. The District Educational Officer,
Tirupur.
5. The Secretary
Sri Kannika Parameswari Higher Secondary School,
Udamalpet, Pin - 642 126.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of MANDAMUS, directing the 1st to 4th respondents to approve the appointment of the petitioner as Junior Assistant on the basis of the 5th respondent's appointment order made in Na.Ka.No.234/2012-13, dated 26.03.2013, and to extend all benefits both service and monetary including accrued arrears thereto forthwith.

For Petitioner : Mr.L.ChandraKumar
For Respondents: Mr.S.Gunasekaran
For R1 to R4 Additional Government Pleader

For R5 : Mr.M.Babu Muthu Meeran

O R D E R

The relief sought for in this Writ Petition is for a direction to the respondents 1 to 4 to approve the appointment of the writ petitioner as Junior Assistant on the basis of the appointment order issued by the 5th respondent in his proceedings Na.Ka.No.234/2012-13, dated 26.03.2013.

2.The learned counsel appearing for the petitioner contended that the writ petitioner is fully qualified to hold the post of Junior Assistant in accordance with the rules and he was appointed by the 5th respondent-school after conducting the process of selection. Necessary proposals were submitted by the 5th respondent for approving the appointment of the writ petitioner. On consideration, the 4th respondent issued an order of rejection in his proceedings dated, 16.12.2014, stating that though the writ petitioner was appointed on 26.03.2013 and the Medical Fitness Certificate was granted by the Doctor only on 08.10.2014. Since there was a contradiction in the Medical Fitness Certificates produced by the writ petitioner, the benefit of approval was rejected.

3.The learned counsel appearing for the petitioner contended that originally the Medical Fitness Certificate was given on the date of appointment i.e. on 26.03.2013, which was enclosed along with the proposal submitted by the 5th respondent-Management on 26.03.2013 (which is enclosed in page Nos.8 & 9 of the typed set of papers). The learned counsel for the petitioner further proceeded that the competent authorities directed the writ petitioner and the Management, to submit a fresh Medical Fitness Certificate and that made the writ petitioner to once again approach the same Doctor and thereafter, the Medical Fitness Certificate dated 08.10.2014 was submitted. However, both the Medical Fitness Certificates dated 26.03.2013 and 08.10.2014 were issued by the same Doctor namely, Chief Civil Surgeon, Medical Officer, Government Hospital, Udumalpet.

4.The learned counsel for the petitioner submitted that since the writ petitioner was directed to get a revised Medical Fitness Certificate, he approached the Doctor and the actual date of issuance of Medical Fitness Certificate was stated in the second Medical Fitness Certificate. Therefore, the ground of rejection of approval is improper and in all other respects, the writ petitioner is fully qualified and eligible to be appointed in the post of Junior Assistant and consequently the approval has to be granted in accordance with the Rules.

5.Mr.S.Gunasekaran, the learned Additional Government Pleader appearing on behalf of the respondents 1 to 4 contended that on the date of appointment, the petitioner has not produced

the proper Medical Fitness Certificate and therefore, the order of rejection is proper. Further, the Medical Fitness Certificate was issued only on 08.10.2014 and that was the reason why the competent authorities were unable to consider the proposal for approval.

6.Secondly, the learned Additional Government Pleader contented that no prior permission was obtained by the 5th respondent before appointing the writ petitioner. However, the post in which the writ petitioner was appointed was a 'retirement vacancy' and therefore there is no infirmity in the appointment of the writ petitioner in the said post. However, the writ petitioner continuing in the same post for a long period viz., more than four years, and the claim of approval has to be granted.

7.In this view of the matter, the reasons stated for non-approval in the order dated 16.12.2014, is improper and accordingly, the respondents 1 to 4 are directed to approve the appointment of the writ petitioner in the post of Junior Assistant in the 5th respondent-school and issue consequential orders to that effect, without any further delay.

8.Accordingly, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

klt/rpa

To

1. The Secretary,
The State of Tamilnadu,
Educational Department,
Fort St. George,
Chennai - 600 009.
2. The Joint Director of School
Education (Secondary)
College Road, Chennai - 600 006.

3. The Chief Educational Officer,
Tirupur.

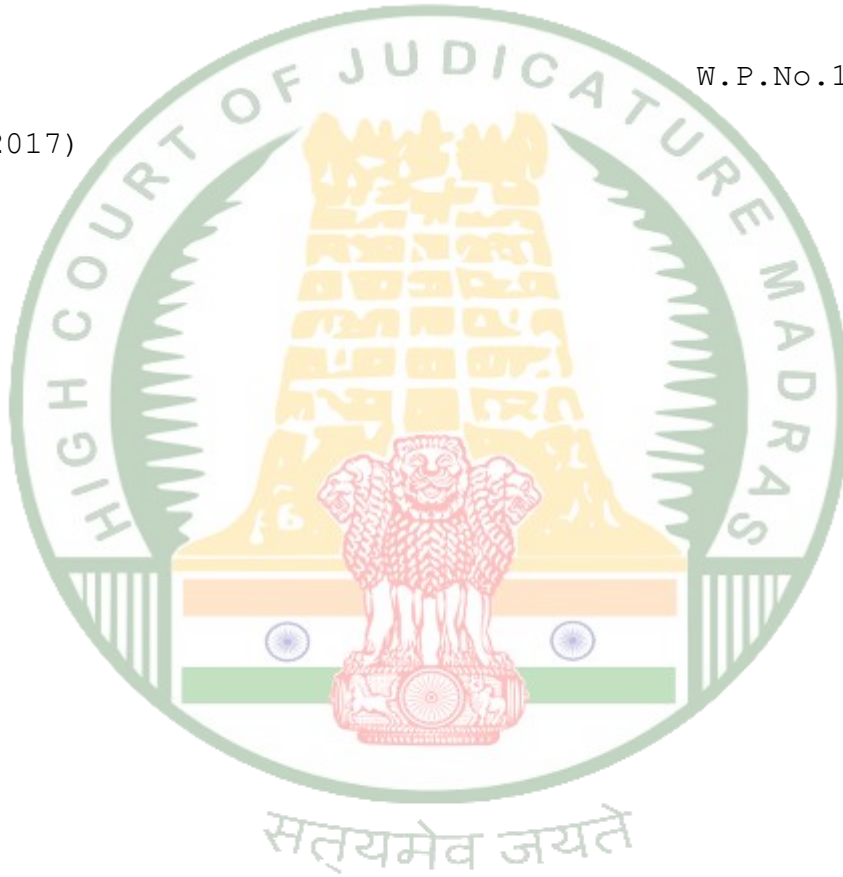
4. The District Educational Officer,
Tirupur.

+1 CC to Mr. L. Chandrakumar, advocate sr 49156

+1 CC to Govt. Pleader sr 49675

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SP(26/07/2017)



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