

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.31539 of 2017

M.Kousalya

.. Petitioner

-vs-

1. The Director of School Education
College Road
Chennai 600 006
2. The Chief Educational Officer
Coimbatore, Coimbatore District
3. The District Educational Officer
Coimbatore, Coimbatore District
4. The Secretary
V.S.Sengottaiah Memorial High School
Kurichi
Coimbatore 641 024 .. 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 impugned proceeding issued by the third respondent District Educational Officer, Coimbatore in O.Mu.No.3948/Aa5/2017 dated 09.10.2017, quash the same and further direct the third respondent District Educational Officer to approve forthwith the appointment of petitioner as Record Clerk in the fourth respondent school namely, V.S.Sengottaiah Memorial High School, Kurichi with effect from the date of appointment viz., 07.06.2017 with all attendant benefits including the arrears of salary and allowances.

For Petitioner :: Ms.M.R.Preethi

For Respondents :: Mr.V.Jayaprakash Narayanan
Special Government Pleader
for R1 to 3

ORDER

This writ petition has been filed challenging the impugned proceeding issued by the third respondent-District Educational Officer, Coimbatore in O.Mu.No.3948/Aa5/2017 dated 09.10.2017, to quash the same with a consequential direction to the third respondent-District Educational Officer, Coimbatore to approve forthwith the appointment of the petitioner as Record Clerk in the fourth respondent school, namely, V.S.Sengottaiah Memorial High School, Kurichi with effect from the date of appointment viz., 07.06.2017 with all attendant benefits including the arrears of salary and allowances.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader taking notice on behalf of the respondents 1 to 3.

3. The crux of the issue raised in this writ petition has been settled once and for all in umpteen orders of this Court holding that prior approval is not required to be obtained from the educational authorities while filling up the vacancy in an existing sanctioned post, whether teaching or non-teaching, by the private aided educational institutions including minority institutions.

4. In the case on hand, the petitioner was appointed as a Record Clerk in the fourth respondent School, namely, V.S.Sengottaiah Memorial High School, Kurichi in a sanctioned post which fell vacant on 1.6.2011 due to the promotion of the previous incumbent Mr.F.Ezbenesar Rabi Kumar on 1.6.2011. In an effort to fill up the said vacancy, the School issued a notification in the Tamil daily "Malai Malar" on 18.3.2017 inviting applications from the eligible candidates under the OC category as per the roster. Learned counsel for the petitioner further submitted that the petitioner and others applied to the said post and the interview was also held on 15.4.2017. Finally the petitioner was selected as an eligible candidate and the order of appointment was also issued to her on 29.5.2017. Pursuant thereto, the petitioner also joined duty on 7.6.2017. Thereafter, the fourth respondent School has submitted the proposal to the District Educational Officer, Coimbatore, the third respondent herein seeking approval of her appointment as Record Clerk and the consequential order disbursing the grant-in-aid towards salary. But the third respondent has rejected the proposal by the impugned order directing the School to make the proposal after getting necessary orders from the Government to fill up the non-teaching post.

5. Assailing the reason given by the District Educational Officer in the impugned order, the learned counsel for the

petitioner, drawing the notice of this Court to the staff fixation order dated 02.12.2016 passed by the District Educational Officer, Coimbatore, submitted that one post of Record Clerk was also sanctioned for the year 2016-17 to the fourth respondent School.

6. A perusal of the staff fixation order dated 02.12.2016 passed by the District Educational Officer, Coimbatore enclosed at page-4 of the typedset of papers clearly shows that the fourth respondent School was sanctioned with the post of Record Clerk for the year 2016-17. Since one of the staff already working as Record Clerk got promotion on 1.6.2011, after notifying the said vacancy in the Tamil daily "Malai Malar" on 18.3.2017 inviting applications from the eligible candidates and after the conduct of interview, the petitioner has been finally selected and she has also joined duty on 7.6.2017. Therefore, the impugned order is set aside and the respondents 1 to 3 are hereby directed to accept the proposal forwarded by the fourth respondent School and pass appropriate orders for approval of the appointment of the petitioner as Record Clerk with effect from the date of her appointment on 7.6.2017 and also release the salary along with arrears within a period of four weeks from the date of receipt of a copy of this order. With this direction, the writ petition stands allowed. Consequently, W.M.P.No.34657 of 2017 is closed. No costs.

Sd/-

Assistant Registrar(CS-)

//True Copy//

Sub Assistant Registrar

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To

1. The Director of School Education
College Road
Chennai 600 006
2. The Chief Educational Officer
Coimbatore, Coimbatore District
3. The District Educational Officer
Coimbatore, Coimbatore District
+1cc to Mr.PREETHI Advocate, S.R.No. 86692

W.P.No.31539 of 2017

PVS (CO)
TR(27/12/2017)