

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2017

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.27155 & 7787 of 2017

T.M.S.Higher Secondary School
rep.by its Correspondent S.Mani
Tirupattur, Vellore District

.. Petitioner in both the Writ Petitions

-vs-

1. Director of School Education
College Road Nungambakkam
Chennai 600 006
2. Chief Educational Officer
Collectorate
Sathuvaachari Vellore
3. District Educational Officer
Tirupattur
Vellore District 635 601

.. Respondents in both the Writ Petitions

W.P.No.27155 of 2017 is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the third respondent to approve the appointment of 1 Lab Assistant pursuant to letter No.3597 dated 27.6.2017 and returned by the 3rd respondent on 19.07.2017.

W.P.No.7787 of 2017 is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the third respondent to accordingly approve the appointment of 1 Junior Assistant, 1 Record Clerk, 1 Office Assistant, dated 01.02.2017 submitted by the petitioner school immediately.

For Petitioners:: Mr.M.V.Venkataseshan

For Respondents:: Mr.K.Rajendra Prasad
Government Advocate

ORDER

T.M.S.Higher Secondary School represented by its
Correspondent has come to this Court with these two writ

petitions seeking issuance of a writ of mandamus, directing the District Educational Officer, Tirupattur District, the third respondent herein to approve the appointment of the incumbent as Lab Assistant pursuant to the letter No.3597 dated 27.6.2017, which was returned by the third respondent on 19.7.2017 and also to approve the appointment of the incumbents to the post of Junior Assistant, Record Clerk and Office Assistant on the basis of the proposal sent by the petitioner school dated 1.2.2017.

2. Heard both sides.

3. The petitioner School, which was founded as an elementary school, has come up to the higher secondary school. It is also an aided non-minority institution. When the total strength of the students in both the high and higher secondary school is about 800, 28 teaching staff are working for quite a long time. Even as per the eligibility norms fixed by the Director of School Education dated 9.11.2010 and the Chief Educational Officer, Vellore dated 30.11.2016, the petitioner School is entitled to one Lab Assistant, one Junior Assistant, one Record Clerk and one Office Assistant, respectively. A reading of the above proceedings would clearly show that the petitioner School has been sanctioned with the aforesaid posts by the school authorities.

4. One Mrs.Shyamala was serving in the post of Lab Assistant, till she reached the age of superannuation on 3.1.2003. On her retirement from service, the petitioner recommended for appointment of an incumbent to the said post. But it was declined on some pretext or the other. The petitioner School, in an effort to fill up one post of Lab Assistant, made a paper publication and subsequently a list of eligible candidates was also received from the employment exchange and finally the interview was held on 20.1.2017, in which 24 persons were interviewed. Ultimately, one Mr.R.Sathish was found to be eligible for appointment as Lab Assistant. After selecting Mr.R.Sathish, who joined as Lab Assistant on 2.2.2017, the petitioner School sent a proposal to the third respondent on 27.6.2017 seeking approval of his appointment. But the third respondent has returned the proposal indicating therein that the petitioner should have appointed the said Lab Assistant only after getting prior permission from the first respondent.

5. Likewise, one Mr.T.Sundaram was serving in the post of Junior Assistant, till he reached the age of superannuation on 30.6.2014. One Mr.Kumaragurubaran was serving in the post of Record Clerk, till he reached the age of superannuation on 28.12.2015 and one Mr.V.Subramani was serving in the post of Office Assistant, till he reached the age of superannuation on 31.5.2013. On their retirement from service, the petitioner recommended for appointment of incumbents to the said post. But it was declined on some pretext or the other. The petitioner School, in an effort to fill up one post of Junior Assistant, one post of Record Clerk and one post of Office Assistant, made

a paper publication and subsequently a list of eligible candidates was also received from the employment exchange and finally the interview were held on 15.12.2016 and 16.12.2016, in which 25 persons were interviewed for the post of Junior Assistant, 18 persons were interviewed for the post of Record Clerk and 19 persons were interviewed for the post of Office Assistant. Ultimately, one Mrs.K.Maheswari was found to be eligible for appointment as Junior Assistant, one Mrs.K.T.Suguna was found to be eligible for appointment as Record Clerk and one Mr.Devaraj was found to be eligible for appointment as Office Assistant. After selecting the aforementioned incumbents, who have joined duty on 20.1.2017, the petitioner School sent a proposal to the third respondent on 1.2.2017 seeking approval of their appointment. But the third respondent has returned the proposal indicating therein that the petitioner should have appointed the said incumbents only after getting prior permission from the first respondent.

6. But this Court finds that the approach of the third respondent is wholly unacceptable. The reason is that when the aforementioned vacancies have arisen in the permanent and sanctioned posts, the petitioner School is entitled to fill up the same without obtaining prior approval. This issue has also been settled by this Court in umpteen number of decisions. In the cases on hand, the petitioner is an aided non-minority educational institution. By the proceedings dated 9.11.2010, the first respondent has already sanctioned one post of Lab Assistant. Similarly, by proceedings dated 30.11.2016, the second respondent has already sanctioned one post of Junior Assistant, one post of Record Clerk and one post of Office Assistant to the petitioner School. In the said posts, which have arisen due to the retirement of Mrs.Shyamala, Mr.T.Sundaram, Mr.Kumaragurubaran and Mr.V.Subramani on 3.1.2003, 30.6.2014, 28.12.2015 & 31.5.2013 respectively, the incumbents, namely, Mr.R.Sathish, Mrs.K.Maheswari, Mrs.K.T.Suguna and Mr.Devaraj have been appointed with effect from 2.2.2017 & 20.1.2017 respectively. Therefore, the proposals sent by the petitioner School through the third respondent shall be accepted and the second respondent is hereby directed to issue the orders of approval and also release the salary with effect from the date of appointment of the aforementioned incumbents, within a period of four weeks from the date of receipt of a copy of this order. With this direction, the writ petitions are allowed. Consequently, W.M.P.Nos.29013 & 8530 of 2017 are closed. No costs.

Sd/-
Assistant Registrar (CS III)

// True Copy//

Sub Assistant Registrar

To

1. The Director of School Education
College Road
Nungambakkam
Chennai 600 006

2. The Chief Educational Officer
Collectorate
Sathuvaachari
Vellore

3. The District Educational Officer
Tirupattur
Vellore District 635 601

+1cc to Mr.V.Venkataseshan, Advocate SR.No.98878
+1cc to Government Pleader SR.No.79565

W.P.Nos.27155 & 7787 of 2017

GN(22/11/2017)



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