



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2017

CORAM :

THE HONOURABLE MR. JUSTICE S. S. SUNDARW.P. (MD) No.10261 of 2017

WEB COPY

M.Rameswaran

... Petitioner

Vs.

1.The Secretary to the Government,
State of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai -9.

2.The Director of School Education (Secondary),
College Road, Chennai -6.

3.The District Educational Officer,
Shrivilliputhur, Virudhunagar District.

4.The Secretary, Mangapuram Hindu Higher Secondary School,
Srivilliputhur - 626 125,
Virudhunagar District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issue of a Writ of Certiorarified Mandamus, to call for entire records connected with the impugned order passed by the 3rd respondent in Mu.Mu.No.994/A5/2017, dated 23.03.2017 and quash the same and directing the 3rd respondent to approve the appointment of the petitioner as Office Assistant in the 4th respondent school, namely, Mangapuram Hindu Higher Secondary School, Srivilliputhur-626 125, Virudhunagar District with all consequential monetary benefits and salary with effect from 30.01.2017.

For Petitioner : Mr.K.K.Kannan

For R-1 to R-3 : Mr.C.Selvaraj,
Special Government Pleader.

ORDER

This Writ Petition has been filed by the petitioner for issuance of a Writ of Certiorarified Mandamus, calling for entire records connected with the impugned order passed by the 3rd respondent in Mu.Mu.No.994/A5/2017, dated 23.03.2017 and quash the same and directing the 3rd respondent to approve the appointment of the petitioner as Office Assistant in the 4th respondent school, namely, Mangapuram Hindu Higher Secondary School, Srivilliputhur-626 125, Virudhunagar District, with all consequential monetary benefits and salary with effect from 30.01.2017.



2. Heard, Mr.K.K.Kannan, learned counsel appearing for the petitioner and Mr.C.Selvaraj, learned Special Government Pleader appearing for the respondents 1 to 3.

3. The petitioner in this Writ petition was appointed as Office Assistant by the fourth respondent.

4. The crucial fact whether the appointment was against the sanctioned post was directed to be verified by the learned Special Government Pleader and the learned Special Government Pleader after getting instructions, has conceded the factual position that the petitioner to whom the approval is sought for was appointed as against the sanctioned post. In this case, the appointment is made by the fourth respondent, a private school getting aid from the Government.

5. The question whether prior approval is required or not before appointing a non-teaching staff in a private aided institution has already been decided in favour of the petitioner holding that no prior permission is required. The attempt of the Government by restricting or preventing the private aided institution from making appointment as against sanctioned post was the subject matter of challenge in several Writ petitions and this Court has consistently allowed all the Writ petitions quashing the order refusing approval or other Government Orders or instructions preventing the private aided schools from making appointment on their own as against sanctioned post.

6. Hence, following the law laid down by this Court in number of Judgments, this Writ petition is allowed and the impugned order in Mu.Mu.No.994/A5/2017, dated 23.03.2017, passed by the third respondent is set aside. The third respondent, namely, the District Educational Officer, Virudhunagar District, in this Writ petition is directed to accord approval to the appointment of the petitioner as Office Assistant in the fourth respondent school which is a private aided institution with effect from the date of joining in service with all monetary and other service benefits within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar



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4.The Secretary,
Mangapuram Hindu Higher Secondary School,
Srivilliputhur - 626 125,
Virudhunagar District.

+One cc to The Special Government Pleader, SR.No.61192

+One cc to Mr.K.K.Kannan, Advocate, SR.No.60857

pmu

RL/7C/3P/SV/MMS/SAR1/30/6/2017

ORDER MADE IN

W.P. (MD) No.10261 of 2017

19.06.2017