



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 28.06.2017

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR
W.P. (MD) .No.10564_of 2017

and

W.M.P. (MD) 8043 of 2017

The Secretary,
Thiruthapathy Higher Secondary School,
Ambasamudram,
Tirunelveli District.

... Petitioner

Vs.

1. The Secretary to Government,
School Education Department,
State of Tamil Nadu,
Secretariat, Fort St, George,
Chennai.
2. The Director of School Education,
College Road, Chennai-6.
3. The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.
4. The District Educational Officer,
Cheranmahadevi Educational District,
Tirunelveli.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the impugned order passed by the 4th respondent in Omu.No.1648/A4/2017, dated 02.05.2017 and to quash the same as illegal and direct the respondents to approve the appointment of M.Prabaharan as Night Watchman as on 18.04.2017 and pay monetary benefits.

For Petitioner : Mr.K.R.Laxman

For Respondents : Mr.N.S.Karthikeyan,
Additional Government Advocate

O R D E R

This Writ Petition has been filed by the petitioner for issuance of a Writ of Certiorarified Mandamus, to call for the impugned order passed by the 4th respondent in Omu.No.1648/A4/2017, dated 02.05.2017 and to quash the same as illegal and direct the respondents to approve the appointment of M.Prabaharan as Night Watchman as on 18.04.2017 and pay monetary benefits.



2. Heard, Mr.K.R.Laxman, learned counsel appearing for the petitioner and Mr.N.S.Karthikeyan, learned Additional Government Pleader appearing for the respondents.

3. The petitioner in this Writ petition appointed one M.Prabaharan, as a Night Watchman in the petitioner's School.

4. The crucial fact whether the appointment was against the sanctioned post was directed to be verified by the learned Additional Government Pleader and the learned Additional Government Pleader after getting instructions, has conceded the factual position that the said M.Prabaharan, to whom the approval is sought for was appointed as against the sanctioned post. In this case, the appointment is made by the petitioner, 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 Omu.No.1648/A4/2017, dated 02.05.2017, passed by the fourth respondent is set aside. The fourth respondent, namely, the District Educational Officer, Tirunelveli District, in this Writ petition is directed to accord approval to the appointment of the said M.Prabaharan, as Night Watchman in the petitioner's 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. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(Writs)

/ True Copy /

Sub Assistant Registrar(C.S.)



To

1. The Secretary to Government,
School Education Department,
State of Tamil Nadu,
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Chennai.
2. The Director of School Education,
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3. The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.
4. The District Educational Officer,
Cheranmahadevi Educational District,
Tirunelveli.

PJL

MAS/MR-KKR/SAR2:05.07.2017:3P-5C

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