



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDARW.P.(MD) No.10832 of 2017 and
W.M.P.(MD) No.8253 of 2017

B.Murugeshwari

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education
Fort St. George, Chennai - 600 009.
2. The Director of School Education,
College Road, Chennai - 600 006.
3. The Chief Educational Officer,
Madurai District.
4. The District Educational Officer,
Madurai, Madurai District.
5. The Correspondent,
Nadar Higher Secondary School,
South Gate, Madurai - 625 001,
Madurai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issue of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 4th respondent herein in A.thi.Mu.No.3127/A4/2017, dated 02.06.2017, quash the same and further direct the 4th respondent herein to approve forthwith the appointment of petitioner as Office Assistant in the 5th respondent-school from 26.05.2017 onwards with salary and other attendant benefits.

For Petitioner	: Mr.E.V.N.Siva
For Respondents	: Mr.C.Selvaraj, Special Government Pleader. for R1 to R4

ORDER

This Writ Petition has been filed by the petitioner for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 4th respondent herein in A.thi.Mu.No.3127/A4/2017, dated 02.06.2017, quash the same



and further direct the 4th respondent herein to approve forthwith the appointment of petitioner as Office Assistant in the 5th respondent-school from 26.05.2017 onwards with salary and other attendant benefits.

2. Heard, Mr.E.V.N.Siva, learned counsel appearing for the petitioner and Mr.C.Selvaraj, learned Special Government Pleader learned counsel appearing for the respondents.

3. The petitioner in this Writ petition was appointed as Office Assistant by the fifth 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 fifth 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 A.thi.Mu.No.3127/A4/2017, dated 02.06.2017, passed by the fourth respondent is set aside. The fourth respondent, namely, the District Educational Officer, Madurai District, in this Writ petition is directed to accord approval to the appointment of the petitioner as Office Assistant in the fifth 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. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar (RTI)

/True Copy/



To

1. The Secretary,
Department of School Education
Fort St. George, Chennai - 600 009.

2. The Director of School Education,
College Road,
Chennai - 600 006.

3. The Chief Educational Officer,
Madurai District.

4. The District Educational Officer,
Madurai, Madurai District.

+ 1 CC TO Mr.E.V.N.SIVA, ADVOCATE IN SR No. 61056

PMU

TE/KP/SAR-I : 28/06/2017 : 3P/6C

ORDER MADE IN
W.P.(MD) No.10832 of 2017 and
W.M.P.(MD) No.8253 of 2017
19.06.2017