



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD) No.10908 of 2017

and

W.M.P.(MD) No.8338 of 2017

B.Karthikeyan

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by the Principal Secretary,
School Education Department,
Fort St. George, Chennai - 600 009.

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

3.The Chief Educational Officer, Trichy.

4.The District Educational Officer, Trichy.

5.K.A.P.Viswanatham Higher Secondary School,
Represented by its Secretary,
Thillai Nagar,
Tiruchirappalli - 620 018.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 4th respondent in O.Moo.No.2020/Aa3/2017, dated 06.04.2017, quash the same and direct the respondents to approve the appointment of petitioner as Record Clerk in the 5th respondent school with effect from 23.12.2016 with all attendant monetary benefits.

For Petitioner : Mr.R.Subramanian

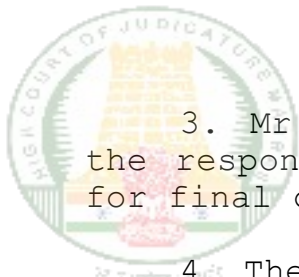
For Respondents : Mr.M.Murugan

Government Advocate

ORDER

This Writ Petition has been filed by the petitioner for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 4th respondent in O.Moo.No.2020/Aa3/2017, dated 06.04.2017, quash the same and direct the respondents to approve the appointment of petitioner as Record Clerk in the 5th respondent school with effect from 23.12.2016 with all attendant monetary benefits.

2. Heard, Mr.R.Subramanian, learned counsel appearing for the petitioner and Mr.M.Murugan, learned Government Advocate appearing for the respondents.



3. Mr.M.Murugan, learned Government Advocate takes notice for the respondents. By consent, the Writ petition itself is taken up for final disposal.

4. The petitioner in this Writ petition was appointed as Record Clerk by the fifth respondent.

5. The crucial fact whether the appointment was against the sanctioned post was directed to be verified by the learned Government Advocate and the learned Government Advocate 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.

6. 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.

7. Hence, following the law laid down by this Court in number of Judgments, this Writ petition is allowed and the impugned order in O.Moo.No.2020/Aa3/2017, dated 06.04.2017 passed by the fourth respondent is set aside. The fourth respondent, namely, the District Educational Officer, Trichy District, in this Writ petition is directed to accord approval to the appointment of the petitioner as Record Clerk 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

/True Copy/

Sub Assistant Registrar

To

1.The Government of Tamil Nadu,
Represented by the Principal Secretary,
School Education Department,
Fort St. George, Chennai - 600 009.



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

3.The Chief Educational Officer,
Trichy.

4.The District Educational Officer,
Trichy.

5.K.A.P.Viswanatham Higher Secondary School,
Represented by its Secretary,
Thillai Nagar,
Tiruchirappalli - 620 018.

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No.60992

PMU

JS/SKN.RSK/SAR.1/4.7.2017/3P-7C

ORDER MADE IN
W.P. (MD) No.10908 of 2017
and
W.M.P. (MD) No.8338 of 2017
19.06.2017