



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

WEB COPY

W.P.(MD) No.10956 of 2017 and
W.M.P.(MD) Nos.8385 & 8386 of 2017

D.Vethanayagam

...Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
School Education Department,
Secretariat, Chennai.

2.The Director of School Education,
O/o.the Director of School Education,
DPI Campus, Chennai.

3.The District Educational Officer,
The District Educational Office,
Collectorate, Virudhunagar District,
Virudhunagar.

... 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 proceedings issued by the third respondent in his proceedings சி.தி.பி.1695/சி.பி.2017, dated 08.05.2017, and quash the same as illegal and consequentially to direct the third respondent to approve the appointment of the petitioner as Watchman with effect from 02.03.2017 and pay arrears of salary with all consequential benefits arising thereon.

For Petitioner : Mr.C.Venkatesh Kumar,
for M/s.Ajmal Associates.

For Respondents : 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 the records relating to the impugned proceedings issued by the third respondent in his proceedings சி.தி.பி.1695/சி.பி.2017, dated 08.05.2017 and quash the same as illegal and consequentially to direct the third respondent to approve the appointment of the petitioner as Watchman with effect from 02.03.2017 and pay arrears of salary with all consequential benefits arising thereon.



2. Heard, Mr.C.Venkatesh Kumar, for M/s.Ajmal Associates learned counsel appearing for the petitioner and Mr.C.Selvaraj, learned Special Government Pleader appearing for the respondents.

3. The petitioner in this Writ petition was appointed as Watchman in S.C.M.S. Girls Higher Secondary School, Sathchiyapuram, Sivakasi - 626 124, Virudhunagar District.

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 petitioner was appointed in S.C.M.S. Girls Higher Secondary School, Sathchiyapuram, Sivakasi- 626 124, Virudhunagar District, which is 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 அ.தி.மு.1695/அ6/2017, dated 08.05.2017, 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 Watchman in S.C.M.S. Girls Higher Secondary School, Sathchiyapuram, Sivakasi- 626 124, Virudhunagar District, 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 petitions are closed.

Sd/-

Assistant Registrar(P&A)

/True Copy/



To

1.The Secretary to Government of TamilNadu
School Education Department,
Secretariat, Chennai.

2.The Director of School Education,
O/o.the Director of School Education,
DPI Campus, Chennai.

3.The District Educational Officer,
The District Educational Office,
Collectorate, Virudhunagar District,
Virudhunagar.

+One cc to M/s.Ajmal Associates, Advocate, SR.No.61527

+One cc to The Special Government Pleader, SR.No.61227

pmu

RL/6C/3P/KP/SAR1/4/7/2017

ORDER MADE IN

W.P. (MD) No.10956 of 2017

20.06.2017