



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) No.11102 of 2017

Saraswathy

... Petitioner

Vs.

1. The State of Tamil Nadu,
Through its Secretary to Government,
Department of School Education,
Secretariat, Fort St. George,
Chennai -9.
2. The Director of School Education,
DPI Campus, Chennai -6.
3. The District Educational Officer,
Thoothukudi District, Thoothukudi.
4. The Correspondent, St.Mark's Higher Secondary School,
Mukuperi-628 616, Thoothukudi District. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 3 to approve petitioner's appointment as Sweeper in 4th respondent school from the date of joining on 23.01.2017 and to pay all the service and monetary benefits by sanctioning grant within stipulated time on the proposal submitted by the 4th respondent on 31.03.2017.

For Petitioner : Mr.T.A.Ebenezer

For Respondents : Mr.M.Murugan,
Government Advocate.

ORDER

This Writ Petition has been filed by the petitioner for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to approve petitioner's appointment as Sweeper in 4th respondent school from the date of joining on 23.01.2017 and to pay all the service and monetary benefits by sanctioning grant within stipulated time on the proposal submitted by the 4th respondent on 31.03.2017.



2. Heard, Mr.T.A.Ebenezer, learned counsel appearing for the petitioner and Mr.M.Murugan, learned Government Advocate appearing for the respondents.

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

4. 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 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, the third respondent, namely, the District Educational Officer, Thoothukudi District, in this Writ petition is directed to accord approval to the appointment of the petitioner as Sweeper 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.

7. With the above direction, the Writ petition is disposed of. No costs.

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar



To

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

2. The Director of School Education, DPI Campus,
Chennai -6.

3. The District Educational Officer, Thoothukudi District,
Thoothukudi.

4. The Correspondent, St.Mark's Higher Secondary School,
Mukuperi-628 616, Thoothukudi District.

+1 cc to Mr.T.A.Ebenezer , Advocate in SR.No. 60868

pmu

AE/KP/SAR1/30.06.2017/3P/6C

ORDER MADE IN
W.P. (MD) No.11102 of 2017
19.06.2017