



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. (MD) No.12529 and
WMP No.9660 of 2017

M.Niyomi ... Petitioner

Vs.

1.The District Educational Officer,
Tuticorin, Tuticorin District

2.The Correspondent,
St. Mary's Middle School
Manapad,
Tuticorin District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the 1st respondent in his proceedings in Na.Ka.No.1967/A5/17 dated 15.05.2017 and quash the same and direct the respondents to approve the appointment of the petitioner as Office Assistant from the date of appointment ie. 11.04.2016 with all the consequential monetary benefits.

For Petitioner : Mr.V.Panneer Selvam

For Respondents : Mr.D.Muruganandham

Additional Government Pleader for R1

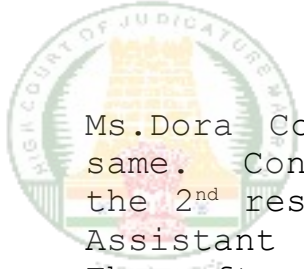
ORDER

By consent of both sides, this writ petition itself is taken up for final disposal.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

3.The writ petition is directed against the impugned order dated 15.05.2017 passed by the District Educational Officer, Tuticorin, the first respondent herein refusing to grant accord approval of appointment of Office Assistant.

4.The learned counsel for the petitioner would submit that the petitioner, having passed 10th standard in March 2013 and 12th standard in March 2015, awaiting for employment opportunity and it is, at this stage, one post of Office Assistant fell vacant in St.Mary's Middle School at Manapad due to the retirement of



Ms.Dora Corera on 30.06.2015. The petitioner applied for the same. Considering the qualification possessed by the petitioner, the 2nd respondent selected and appointed the petitioner as Office Assistant by order dated 09.04.2016 with effect from 11.04.2016. Thereafter the 2nd respondent Management has also sent a proposal to the first respondent. But the first respondent returned the said proposal on 15.05.2017 referring to G.O.Ms.No.115 School Education Department dated 30.05.2007, G.O.Ms.No.189, School Education Department dated 29.07.2009 and G.O.Ms.No.203 School Education Department dated 23.07.2009 citing a reason that permission of Director of School Education has to be obtained before filling up of vacancies.

5. The learned counsel for the petitioner submitted that the 2nd respondent School is a minority one, with regard to the filling up of the post of sanctioned post of non teaching staff, this Court has settled the issue in a reported judgment in *Deva Asir v. Secretary to Government, School Education Department and others* reported in 2016 (3) LLJ 49 (Mad) holding that if any vacancies arose in any sanctioned post in minority educational institutions in respect of non teaching staff, no prior permission is necessary as per Rule 15(4) of the Tamilnadu Private Schools (Regulation) Rules.

6. The issue is no longer res integra. While considering similar issue, I have also held in *V.Manoj Kumar v. The Government of Tamilnadu*, [CDJ 2017 MHC 5041], as follows:

"4.In the result,

(i)All the writ petitions are allowed.

(ii)The impugned orders are set aside.

(iii).The respective respondents are directed to approve the appointments of non-teaching staff in the Private Aided Schools in these cases and to sanction grant, within a period of four weeks from the date of receipt of a copy of this order.

5.Thus, the issue is well settled now that any school, either minority/private/aided or unaided, is entitled to fill up the vacancy arising on account of promotion, retirement, removal, dismissal etc., against a sanctioned post already approved by the school authorities, without even obtaining prior permission from the Government. In the case on hand, admittedly, the writ petitioners have been appointed against the vacancies relating to sanctioned posts as Non teaching Staff in various cadres and therefore, by following the above cited case laws, this court hereby directs the respective respondents to approve the appointments of the Non teaching staff by the Private Aided Schools and to grant within a period of four weeks from the date of receipt of a copy of this order."



7. In view of the above, the writ petition stands allowed and the impugned order is quashed and the 1st respondent is directed to approve the appointment of the petitioner from the date of appointment, namely, 11.04.2016 and to sanction the grant 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(Crl.Side)

/True Copy/

Sub-Assistant Registrar

To

The District Educational Officer,
Tuticorin, Tuticorin District

+One cc to The Special Government Pleader, SR.No.78475

+One cc to Mr.V.Pannerselvam, Advocate, SR>No.78573

RR

RL/4C/3P/SKN/RSK/SAR2/31/10/2017

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