



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 28.03.2017

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

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W.P.(MD).Nos.4649 to 4653 of 2017, 6438 of 2016, 4215 to 4217 of 2017, 4892 of 2017 & 4218 of 2017

W.P.(MD).Nos.4649 to 4653/2017

&

W.M.P(MD)Nos.3726 to 3730/2017

The Secretary,
Chathira Bharathi Higher Secondary School,
Kadayam,
Tirunelveli District.

... Petitioner in all W.Ps.

Vs.

1. The Secretary to Government,
School Education Department,
State of Tamil Nadu,
Secretariat, Fort St, George,
Chennai.
2. The Director of School Education,
College Road, Chennai-6.
3. The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.
4. The District Educational Officer,
Cheranmahadevi Educational District,
Tirunelveli.

... Respondents in all W.Ps.

PRAYER in W.P.(MD).No.4649/2017: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the impugned order passed by the 4th respondent in Omu.No.67/A1/2017, dated 24.01.2017 and to quash the same as illegal and direct the respondents to approve the appointment of S.Hariharan as Night Watchman as on 02.01.2017 and pay all monetary benefits.

PRAYER in W.P.(MD).No.4650/2017: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the impugned order passed by the 4th respondent in Omu.No.65/A1/2017, dated 24.01.2017 and to quash the same as illegal and direct the respondents to approve



the appointment of S.Rajeshwari as Lab Assistant as on 02.01.2017 and pay all monetary benefits.

PRAYER in W.P. (MD) .No.4651/2017: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the impugned order passed by the 4th respondent in Omu.No.69/A1/2017, dated 24.01.2017 and to quash the same as illegal and direct the respondents to approve the appointment of P.Senthilkumar as Office Assistant as on 02.01.2017 and pay all monetary benefits.

PRAYER in W.P. (MD) .No.4652/2017: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the impugned order passed by the 4th respondent in Omu No.66/A1/2017, dated 24.01.2017 and to quash the same as illegal and direct the respondents to approve the appointment of H.Venkatachalam as Record Clerk as on 02.01.2017 and pay all monetary benefits.

PRAYER in W.P. (MD) .No.4653/2017: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the impugned order passed by the 4th respondent in Omu No.68/A1/2017, dated 24.01.2017 and to quash the same as illegal and direct the respondents to approve the appointment of A.Ramasubramaniyan as Librarian as on 02.01.2017 and pay all monetary benefits.

For Petitioner : Mr.K.R.Laxman

For Respondents : Mr.J.Gunaseelan Muthiah
Government Advocate

W.P. (MD) .No.6438 of 2016

&

W.M.P. (MD) No.5603 of 2016

D.Suganthi Mercy

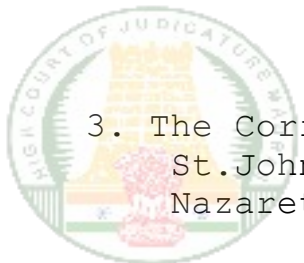
... Petitioner

Vs.

1. The Director
State Council of Educational Research and Training
College Road, Chennai-6.

2. The Principal,
District Institute of Education and Training,
Vanaramutti,

<https://hcservices.courts.gov.in/hcservices/>
Tiruchendur District.



3. The Correspondent,
St.John's Teacher Training Institute,
Nazareth, Thoothukudi District. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in his proceedings in Na.Ka.No.624/E2/2016 dated 03.03.2016 and quash the same as illegal, arbitrary, violation of principles of law and further direct the 1st respondent to grant approval to the petitioners appointment as a Junior Assistant in the St.Jonh's Teacher Training Institute, Nazareth, Thoothukudi District from the date of 03.07.2013 onwards within the stipulated period.

For Petitioner : Mr.G.Marimuthu
For R1 and R2 : Mr.J.Gunaseelan Muthiah
Government Advocate
For R3 : Mr. G.Prabhu Rajadurai
Government Advocate

W.P. (MD) .Nos.4215 to 4217 of 2017

&

W.M.P. (MD) Nos.3359 to 3361 of 2017

L.K.Higher Secondary School,
Kayalpattinam - 628 204,
Tuticorin District,
Rep. by its Correspondent.

... Petitioner in all W.Ps.

Vs.

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

2. The Director of School Education,
DPI Compound, College Road,
Chennai.

3. The Chief Educational Officer,
Tuticorin District,
Tuticorin.

4. The District Educational Officer,
Tuticorin District,
Tuticorin.

... Respondents in all W.Ps.



5. M.Madasamy,
Watchman,
L.K. Higher Secondary School,
Kayalpattinam - 628 204,
Tuticorin District. ... Respondent No.5 in W.P.No.4215/2017

6. M.Venkatanathan,
Record Clerk,
L.K.Higher Secondary School,
Kayalpattinam 628 204,
Tuticorin District. ... Respondent No.5 in W.P.No.4216/2017

7. S.B.B.Seyed Ahamed Buhari,
Lab Assistant,
L.K.Higher Secondary School,
Kayalpattinam 628 204,
Tuticorin District. ... Respondent No.5 in W.P.No.4217/2017

PRAYER in W.P. (MD).No.4215 of 2017: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 4th respondent in his proceedings in Oo. Mu. No.4501/Aa4/16 dated 15.02.2017 and quash the same as illegal and consequently direct the 4th respondent to approve the appointment of the 5th respondent as Watchman in the petitioner school with effect from his date of appointment on 01.08.2016 and to release salary grant and other benefits thereon within the period that may be stipulated by this Court.

PRAYER in W.P. (MD).No.4216 of 2017: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 4th respondent in his proceeding Oo. Mu. No. 4500/Aa4/16 dated 15.02.2017 and quash the same as illegal and consequently direct the 4 the respondent to approve the appointment of the 5th respondent as Record Clerk in the petitioner school with effect from his date of appointment on 01.08.2016 and to release salary grant and other benefits thereon within the period that may be stipulated by this Court.

PRAYER in W.P. (MD).No.4217 of 2017: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 4th respondent in his proceeding Oo. Mu. NO. 4502/Aa4/16 dated 15.02.2017 and quash the same as illegal and consequently direct the 4 the respondent to approve the appointment of the 5th respondent as Lab Assistant in the petitioner school with effect from his date of appointment on 01.08.2016 and to release salary grant and other benefits thereon within the period that may be stipulated by this Court.



For Petitioner
For R1 to R4

: Mr.M.Jerein Mathew
: Mr.J.Gunaseelan Muthiah
Government Advocate

W.P. (MD).No.4892 of 2017

&

W.M.P (MD) No.3931 of 2017

Zubaida Higher Secondary School,
Kayalpatnam - 628 204,
Tuticorin District,
Rep. by its Correspondent.

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Department of School Education,
Secretariat,
Chennai.
2. The Director of School Education,
DPI Compound, College Road,
Chennai.
3. The Chief Educational Officer,
Tuticorin District,
Tuticorin.
4. The District Educational Officer,
Tuticorin District,
Tuticorin.
5. H.Uvaiskhan,
Watchman,
Zubaida Higher Secondary School,
Kayalpattinam- 628 204,
Tuticorin District.

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 4th respondent in his proceedings Oo.Mu.No.1779/Aa5/15 dated 23.11.15 and quash the same as illegal and consequently direct the 4th respondent to approve the appointment of the 5th respondent as Watchman in the petitioner school with effect from his date of appointment and to release salary grant and other benefits thereon within the period that may be stipulated by this Court.



For Petitioner : Mr.M.Jerin Mathew
For R1 to R4 : Mr. N.S.Karthikeyan
Additional Government Pleader

W.P. (MD) .No.4218 of 2017

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Sri M.K.V.Sala Higher Secondary School,
Rep. by its Secretary
S.Melapatti -625703
Perayur Taluk,
Madurai District.

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. 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,
Madurai.
4. The District Educational Officer,
Usilampatti, Madurai District.

...Respondents

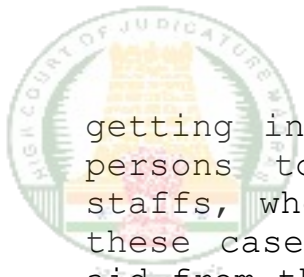
PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order issued by the 4th respondent herein in O.Mu.No.4/A4/2017 dated 10.02.2017, quash the same, and further direct the 4th respondent herein to approve forthwith the appointment of M.Panthamuthu as Watchman in the petitioner - school from 23.11.2016 onwards with salary and other attendant benefits.

For Petitioner : Mr.E.V.N.Siva
For Respondents : Mr.J.Gunaseelan Muthiah
Government Advocate

C O M M O N O R D E R

The petitioners in these writ petitions are either the concerned non-teaching staff or the school in which a non-teaching staff was appointed as against sanctioned post.

<https://hcservices.courts.gov.in/hcservices/> The crucial fact whether the appointment was against sanctioned post or not was directed to be verified by the learned Government Pleader and the learned Government Pleader after



getting instructions, has conceded the factual position that the persons to whom the approval is sought for are non-teaching staffs, who were appointed as against the sanctioned post. In all these cases the appointments are made in private schools getting aid from the Government.

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3. 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. Hence, following the law laid down by this Court in number of judgments, the respondents (*) 3 and 4 in W.P.(MD).Nos.4649 to 4653 of 2017, 4215 to 4217 of 2017, 4892 of 2017 & 4218 of 2017 and the first respondent in W.P.(MD)No. 6438 of 2016, are directed to accord approval to the appointment of non-teaching staff in the private aided institution with effect from the date of appointment with all monetary and other service benefits within a period of six weeks from the date of receipt of a copy of this order.

4. With the above direction, these writ petitions are disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CO)

**(*)AMENDED AS PER ORDER OF THIS
HON'BLE COURT DATED 06/06/2017**

/True Copy/

Sub Assistant Registrar

To

(*)TO BE SUBSTITUTED ORDER ALREADY DESPATCHED ON 05/05/2017

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

<https://hcservices.ecourts.gov.in/hcservices/>

2. The Director of School Education,
College Road, Chennai-6.



3. The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.
4. The District Educational Officer,
Cheranmahadevi Educational District,
Tirunelveli.
5. The Director
State Council of Educational Research and Training
College Road, Chennai-6.
6. The Principal,
District Institute of Education and Training,
Vanaramutti,
Thoothukudi District.
7. The Chief Educational Officer,
Tuticorin District,
Tuticorin.
8. The District Educational Officer,
Tuticorin District,
Tuticorin.
9. The Chief Educational Officer,
Madurai District,
Madurai.
10. The District Educational Officer,
Usilampatti, Madurai District.

+1cc to M/S THE SPECIAL GOVERNMENT PLEADER, SR.NO. 18815
+4cc to Mr.M.E.Ilango, Advocate, SR.Nos.18664,18665,18666,18667
+1cc to Mr.E.V.N.Siva, Advocate, SR.18628
+1cc to Mr.G.Prabhu Rajadurai, Advocate, SR.18604

W.P. (MD) .Nos.4649 to 4653 of 2017, 6438 of
2016, 4215 to 4217 of 2017, 4892 of 2017 & 4218 of 2017
28.03.2017

AKV
kk/RSK/SAR4-04.50.2017-8P-18C

RL/18C/8P/RSK/SAR1/23/6/2017