



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 09.06.2017

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.P. (MD) .No.5119 of 2017

B.Chandra Kumar

..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.
D.P.I. Campus, College Road,
Nungambakkam,
Chennai - 600 006.

3. The Chief Educational Officer,
Trichy.

4. The District Educational Officer,
Trichy.

5. T. Sevanthilingam Muthiriar High School,
Represented by its Secretary,
Varaganeri - 620 008,
Trichirappalli.

..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.Mu.No.1585/Aa5/2017, dated 10.03.2017, quash the same and direct the respondents to approve the appointment of petitioner as Junior Assistant in the 5th respondent school with effect from 02.03.2017 with all attendant monetary benefits.

For Petitioner :Mr.R.Subramanian

For Respondents :Mr.J.Gunaseelan Muthiah
Government Advocate.

**ORDER**

This Writ petition has been filed by the petitioners for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the fourth respondent dated 10.03.2017, quash the same and direct the respondents to approve the appointment of petitioner as "Junior Assistant" in the fifth respondent school with effect from 02.03.2017 with all attendant monetary benefits.

2. Heard, Mr.R.Subramanian, learned counsel appearing for the petitioner, Mr.J.Gunaseelan Muthiah, learned Government Advocate, appearing for the respondents.

3. The petitioner was appointed as Junior Assistant in the fifth respondent School, with effect from 02.03.2017. It is not in dispute that the petitioner was appointed as Junior Assistant only against the sanctioned post.

4. The learned Government Advocate, after getting instructions has conceded the factual position that the post in which the petitioner was appointed is a sanctioned post.

5. However, when the fifth respondent approached the fourth respondent for approval, the proposal was returned by the impugned order, dated 10.03.2017, on the ground that the fifth respondent is required to get prior approval from the Director of School Education.

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 of their own as against sanctioned post.

7. Hence, following the law laid down by this Court in number of judgments, the impugned order passed by the fourth respondent in O.Mu, No.1585/Aa2/2017, dated 10.03.2017, is set aside and the respondents 1 to 3 in this writ petition are directed to accord approval to the appointment of the petitioner as "Junior Assistant" in the fifth respondent school with effect from 02.03.2017 with all monetary and other service benefits of six weeks from the date of receipt of a copy of this order.



8. With the above directions, the Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar(CO)

WEB COPY

/True Copy/

Sub Assistant Registrar

To

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

2.The Director of School Education.
D.P.I. Campus, College Road,
Nungambakkam,
Chennai - 600 006.

3.The Chief Educational Officer,
Trichy.

4.The District Educational Officer,
Trichy.

5.The Secretary,
T.Sevanthilingam Muthiriar High School,
Varaganeri - 620 008,
Trichirappalli.

+1cc to M/S THE SPECIAL GOVERNMENT PLEADER, SR.NO. 59748

+1cc to Mr.R.Subramanian, Advocate, SR.NO.59673

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RM/GSP

KK/KP/SAR1/16.06.2017/3P-8C