



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :08.06.2017**

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) .No.6571 of 2017 and

W.M.P. (MD) No.5156 of 2017

WEB COPY

T.Mohammed Basheer Ahamed

.. Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by Secretary to Government,
School Education Department,
Secretariat, Chennai 600 009.
- 2.The Director of School Education,
D.P.I. Campus,
College Road, Chennai - 600 006.
- 3.The Chief Educational Officer,
Madurai District, Madurai.
- 4.The District Educational Officer,
Melur(G), Madurai District.
- 5.The Correspondent,
Al-Ameen Higher Secondary School,
K.Pudur, Madurai - 625 007,
Madurai District.

.. 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 order passed by the fourth respondent in his proceedings in O.Mu.No.3378/A1/2016, dated 09.08.2016 and quash the same and the respondents 1 to 4 to approve the appointment of the petitioner in the post of Night Watchman in the 5th respondent school from the date of appointment on 01.04.2016 by passing appropriate orders on the proposal submitted by the 5th respondent, dated 12.08.2016, with all consequential attendant benefits including arrears of salary with interest, within a time to be fixed be this Court.

For Petitioner
For R-1 to R-4

:Mr.T.Chandrasekaran
:Mr.N.S.Karthikeyan,
Additional Government Pleader.

O R D E R

This Writ petition has been filed by the petitioner for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the fourth respondent in his proceedings in O.Mu.No.3378/A1/2016, dated 09.08.2016 and quash the same and the respondents 1 to 4 to approve the appointment of the petitioner in the post of Night Watchman in the 5th respondent



school from the date of appointment on 01.04.2016 by passing appropriate orders on the proposal submitted by the 5th respondent, dated 12.08.2016, with all consequential attendant benefits including arrears of salary with interest, within a time to be fixed by this Court.

WEB COPY

2. Heard, Mr.T.Chandrasekaran, learned counsel appearing for the petitioner and Mr.N.S.Karthikeyan, learned Additional Government Pleader appearing for the respondents 1 to 4.

3. Mr.N.S.Karthikeyan, learned Additional Government Pleader takes notice for the respondents 1 to 4. By consent, the Writ petition itself is taken up for final disposal.

4. The petitioner in this Writ petition was appointed in the post of Night Watchman on 01.04.2016 in the 5th respondent school.

5. The crucial fact whether the appointment was against the sanctioned post was directed to be verified by the learned Additional Government Pleader and the learned Additional Government Pleader after getting instructions, has conceded the factual position that the person to whom the approval is sought for is non-teaching staff, who was appointed as against the sanctioned post. In this case, the appointment is made in private school getting aid from the Government.

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 on their own as against sanctioned post. Hence, following the law laid down by this Court in number of Judgments, this Writ petition is allowed and the impugned order, dated 09.08.2016, passed by the fourth respondent is set aside. The respondents 1 to 4 in this Writ petition 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. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(P & A)

/True Copy/



To

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

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

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

4. The District Educational Officer,
Melur(G), Madurai District.

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No.59431

+1cc to MR.T.CHANDRASEKARAN Advocate in SR. No.59270

PMU

JS/GT/SAR.1/29.06.2017/3P-7C

ORDER MADE IN
W.P.(MD).No.6571 of 2017 and
W.M.P.(MD)No.5156 of 2017
08.06.2017