



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

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) .No.7018 of 2017 and
W.M.P. (MD) No.5543 of 2017

Aksal

.. Petitioner

Vs.

1. The Secretary,
Department of School Education,
State of Tamil Nadu, Secretariat,
Fort St. George, Chennai - 9.
2. The Director of School Education,
D.P.I. Campus,
Chennai - 600 006.
3. The District Educational Officer,
Kovilpatti, Thoothukudi District.
4. The Correspondent,
TDTA KGM Higher Secondary School,
S.Kailasapuram,
Thoothukudi District.

.. Respondents

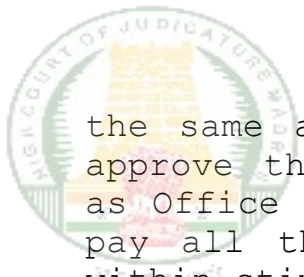
PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the third respondent in his proceedings in O.Mu.No.5376/A1/2015, dated 4.12.2015 and quash the same as illegal and consequently, direct the respondents to approve the petitioner's appointment in fourth respondent school as Office Assistant from the date of joining on 02.04.2013 and to pay all the service and monetary benefits by sanctioning grant within stipulated time.

For Petitioner
For R-1 to R-3

:Mr.T.A.Ebenezer
: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 third respondent in his proceedings in O.Mu.No.5376/A1/2015, dated 4.12.2015 and quash



the same as illegal and consequently, direct the respondents to approve the petitioner's appointment in fourth respondent school as Office Assistant from the date of joining on 02.04.2013 and to pay all the service and monetary benefits by sanctioning grant within stipulated time.

WEB COPY

2. Heard, Mr.T.A.Ebenezer, learned counsel appearing for the petitioner and Mr.N.S.Karthikeyan, learned Additional Government Pleader appearing for the respondents 1 to 3.

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

4. The petitioner in this Writ petition was appointed as Office Assistant in the fourth respondent school against sanctioned post.

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 petitioner to whom the approval is sought for is a 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, the Writ petition is allowed and the impugned order is set aside. The respondents 1 to 3 in this Writ petition are directed to accord approval to the appointment of the petitioner as Office Assistant in the private aided institution with effect from the date of joining in service 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 (CS-I)



To

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

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

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

+1 CC to M/s.T.A.EBENEZER, Advocate, SR No. 59081.

+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No. 59415.

PMU

PSM/KKR/SAR2/27.06.2017/3P/6C

ORDER MADE IN
W.P.(MD).No.7018 of 2017 and
W.M.P.(MD)No.5543 of 2017
08.06.2017