

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.6818 & 6819 of 2018

Subramania Sastriar Higher Secondary School
represented by its Correspondent Sri K.Boopathy
No.72, North Fort Street
Arani 632 301
Thiruvannamalai District

..Petitioner in both the petitions

-vs-

1. The Director of School Education
D.P.I.Campus, College Road
Chennai 600 006
2. The District Educational Officer
Office of the District Educational Officer
Cheyyar 604 401
Thiruvannamalai District

..Respondents in both the petitions

W.P.No.6818 of 2018 is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records on the file of the second respondent dated 10.01.2018 in Na.Ka.No.1929/A4/2017, quash the same and consequently direct the respondents to grant approval to the appointment of Ms.T.Sukanya to the sanctioned post of Office Assistant with effect from 23.02.2017 with all consequential benefits.

W.P.No.6819 of 2018 is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records on the file of the second respondent dated 12.01.2018 in Na.Ka.No.1928/A4/2017, quash the same and consequently direct the respondents to grant approval to the appointment of Mr.K.Vignesh to the sanctioned post of Record Clerk with effect from 23.02.2017 with all consequential benefits.

For Petitioners :: Mrs.Dakshayani Reddy

For Respondents :: Mr.C.Munusamy
Special Government Pleader

ORDER

These two writ petitions have been filed challenging the impugned orders dated 10.1.2018 & 12.1.2018 passed by the District Educational Officer, Cheyyar rejecting the proposals sent by the petitioner school, citing a false reason that no prior permission has been obtained by the petitioner school before filling up of the posts of Office Assistant and Record Clerk.

2. Learned counsel for the petitioners submitted that when the petitioner school, being a non-minority educational institution receiving grant-in-aid from the State Government, was issued with the staff fixation order by the Chief Educational Officer, Tiruvannamalai for the year 2014-15 sanctioning two posts of Office Assistant and one post of Record Clerk, which were confirmed in the staff fixation orders issued for the years 2015-16 and 2016-17 sanctioning the above posts, in fine tune with the said orders, the petitioner school appointed Ms.T.Sukanya in the post of Office Assistant, which fell vacant due to the superannuation of one G.Jayachandran on 31.3.2014, with effect from 23.2.2017 and Mr.K.Vignesh in the post of Record Clerk, which fell vacant due to the promotion of Mr.P.Gokulan as B.T.Assistant (Maths) on 15.6.2011, with effect from 23.2.2017 and accordingly sent the proposals seeking approval of their appointments to the said posts. However, the District Educational Officer, Cheyyar, though aware of the settled legal position that whenever any vacancies in the sanctioned non-teaching posts arose, the same can be filled up without getting prior approval and knowing pretty well that the petitioner school has filled up the above post of Office Assistant and Record Clerk as per the staff fixation orders, has wrongly rejected the proposals deliberately with a bad intention to drive the petitioner school from pillar to post. Therefore, she pleaded that the impugned orders are liable to go. She has also referred to the order passed by this Court dated 17.3.2017 in a batch of writ petitions viz., W.P.Nos.29998 of 2014 etc., to say that the issue raised in the present writ petitions is well settled 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. When the petitioner school has appointed the aforementioned non-teaching staff only in the sanctioned posts, the second respondent ought not to have rejected the proposals. Therefore, she sought for interference with the impugned orders.

3. The learned Special Government Pleader for the respondents, taking note of the staff fixation orders for the years 2014-15, 2015-16 and 2016-17 by the Chief Educational

Officer, Tiruvannamalai sanctioning two posts of Office Assistant and one post of Record Clerk, is unable to support the impugned orders.

4. Since the law is well settled that the petitioner school is entitled to appoint Mrs.T.Sukanya in the sanctioned post of Office Assistant arose on account of the retirement of one G.Jayachandran and Mr.K.Vignesh in the sanctioned post of Record Clerk arose on account of the promotion of one P.Gunalan as B.T.Assistant (Maths), with effect from 23.2.2017, this Court finds no impediment to direct the respondents to approve their appointments. Accordingly, the impugned orders are set aside and the respondents are directed to pass orders approving the appointments of Mrs.T.Sukanya and Mr.K.Vignesh in the posts of Office Assistant and Record Clerk in the petitioner school from the date of their initial appointment and also release the salary including arrears within a period of two weeks from the date of receipt of a copy of this order. The writ petitions are allowed. Consequently, W.M.P.Nos.8443 to 8446 of 2018 are closed. No costs.

-s/d-
Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

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To

1. The Director of School Education
D.P.I.Campus, College Road
Chennai 600 006
2. The District Educational Officer
Office of the District Educational Officer
Cheyyar 604 401
Thiruvannamalai District

+2 CCS to Mrs.Dakshayani Reddy, Advocate sr 24044.
+1 CC to Govt. Pleader sr 23924.

W.P.Nos.6818 & 6819 of 2018

SP(10/04/2018)