

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26.02.2018

Coram

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

W.A.No.841 of 2017
and C.M.P.No.11651 of 2017

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

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

3.The District Educational Officer
Erode.

..Appellants/Respondent 1 to 3

Vs.

1.S.Devadoss

2.The Correspondent
C.S.I. Boys Hr.Sec.School
Erode 1.

..Respondent/Petitioner
& 4th Respondent

Writ Appeal filed under Clause 15 of Letters Patent to set-aside the order dated 09.09.2014 made in W.P.No.24367 of 2014, on the file of this Court.

Prayer WP.24367/2014: Writ Petition filed under Article 226 of the Constitution of India Praying for the issuance of Writ of Certiorarified Mandamus to call for the records relating to the order passed by the 3rd respondent in his proceedings in O.Mu.No.8563/A3/2013 dated 14.5. 2013 and quash the same and consequently direct the respondents to approve the petitioner appointment as Watchman in 4th respondent school from the date of his appointment and to pay all the service and monetary benefits within stipulated time.

For Appellants : Mr.K.Karthikeyan
Government Advocate

For R1 : Mr.C.M.Ehoma Saviour
for Mr.T.A.Ebinezer

For R2 : No Appearance

J U D G M E N T

Judgment of the Court was delivered by K.K.SASIDHARAN, J.]

The first respondent was appointed as Watchman on 22 October, 2012 by the Management of CSI Boys Higher Secondary School, consequent to the retirement of Thiru Samikkan on 31 March, 2009. The appointment was against a sanctioned post. The Management submitted proposal for approval of the appointment of the first respondent. The District Educational Officer, Erode, rejected the proposal on the ground that the appointment was made without seeking prior permission from the Government. The order was put in issue before the writ court in W.P.No.24367 of 2014. The learned Single Judge taking into account the string of orders passed earlier by the learned Single Judges of this Court and the judgment of the Division Bench, allowed the writ petition and a direction was issued to the Educational Authority to approve the appointment. The said order is under challenge at the instance of the State.

2. There is no dispute that the appointment of the first respondent was against a sanctioned post. The Management, earlier appointed Thiru Samikkan as watchman. The appointee retired on attaining the age of superannuation on 31 March, 2009. It was only in the said vacancy, the first respondent was appointed as Watchman on 22 October, 2012. The only reason given by the District Educational Officer, Erode to reject the approval was the failure to obtain prior permission from the Government before appointment.

3. Similar issue recently came up for consideration before a Division Bench of this Court in W.A.No.1589 of 2017. The Division Bench in its judgment dated 27 November, 2017 and more particularly, in paragraph 31, made the position clear that no prior permission is required from the Director of Education to fill up a sanctioned post in a minority institution. The facts are identical in the subject case. The institution in question is a minority institution. The appointment was made against a sanctioned post. We are, therefore, of the view that the learned Single Judge was justified in directing the appellants to approve the appointment of the first respondent. We therefore, do not find any reason to interfere in the order passed by the learned Single Judge.

In the upshot, we dismiss the intra court appeal. No costs.
Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gms

To

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

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

3.The District Educational Officer
Erode.

+1cc to Mr.T.A.Ebanesar, Advocate, S.R.No.14459

+1cc to the Government Pleader, S.R.No.15360

W.A.No.841 of 2017

LRS (CO)

RRK (05/04/2018)

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