

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2018

CORAM

THE HON'BLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P.No.23707 of 2017
and
WMP.No.24902 of 2017

P.Murugan

... Petitioner

Vs

1. The Government of Tamil Nadu,
Rep. by its Secretary,
School Education Department,
St.George Fort, Chennai -9
2. The Director of School Education,
College Road,
Chennai - 6.
3. The Chief Educational Officer,
Erode District, Erode.
4. The District Educational Officer,
Erode District, Erode - 638 001.
5. The Secretary,
The Sengunthar Higher Secondary School,
Erode - 638001.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus to call for the records relating to the 4th respondent in O.Mu.No.2912 /A3/2017, dated 05.07.2017 for not approving the petitioner's appointment and quash the same, consequently direct the respondents 1 to 4 to approve the petitioner's appointment as a Night Watchman and pay the salary with effect from the date of his original appointment i.e. 09.02.2017 and pay the same.

For Petitioner : Mr.K.Sathish Kumar
For Respondents : Mr.C.Munusamy
Special Government Pleader
(R1 to R4)
: No appearance (for R5)

O R D E R

The relief sought for in this writ petition is to call for the records relating to the 4th respondent in O.Mu.No.2912 / A3/2017, dated 05.07.2017 for not approving the petitioner's appointment and quash the same, consequently direct the respondents 1 to 4 to approve the petitioner's appointment as a Night Watchman and pay the salary with effect from the date of his original appointment i.e. 09.02.2017 and pay the same.

2.The claim of the writ petitioner is that he was appointed in a sanctioned post and in spite of that approval of the appointment was not granted.

3.The grievances of the writ petitioner is that he was appointed in accordance with the Rules and procedures in a sanctioned post and therefore, he is entitled for approval of appointment in accordance with the Act and Rules. The proposals were also submitted by the respective Management seeking approval of appointment.

4.When the matter is taken up for hearing, the learned Government Advocate appearing on behalf of the respondents filed the report submitted by the first respondent and paragraphs 3 and 4 of the report are extracted hereunder:

"3.It is further submitted that the Government of Tamil Nadu has issued Orders in G.O.Ms.No.64, School Education (SE 6 (1) Department, dated 03.04.2018 lifting the ban for according approval to the appointment in the non-teaching posts in Government aided schools. The first respondent in pursuance of the direction of the Hon'ble High Court made in the above said W.P.No.7077 to 7080 of 2018, dated 03.04.2018 has issued detailed circular in the proceedings Rc.No.33112/D1/S4/2013, dated 04.04.2018 reiterating to strictly follow up the conditions laid down in the above said circular, while giving appointment approval of non-teaching posts by the District Educational Officers in Government aided Schools.

4.The copy of the said G.O.Ms.No.64, School Education (SE 6(1) Department dated 03.04.2018 and the proceedings issued by the first respondent in Rc.No.33112/D1/S4/2013, dated 04.04.2018 and annexed herewith for kind perusal of Hon'ble High Court."

5.On a perusal of the above, it is seen that the Government issued G.O.Ms.No.64, School Education Department dated 03.04.2018 and the Director of School Education issued a circular on 04.04.2018, setting out the procedure for grant of

approval in accordance with the Act and Rules. Clause 7 of the circular categorically enumerated that the competent authorities if violates the procedures, disciplinary proceedings will be initiated against those officials, who are committing any such violations. Thus, it is made clear that the approval of appointment has to be granted by following the Act and Rules.

6.This being the factum of the case, the case of the writ petitioner is to be considered in the light of the Government Order and the circular issued by the Director of School Education and accordingly, the decisions are to be taken and orders are to be issued, within a period of twelve weeks from the date of receipt of a copy of this order.

7.Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary
Government of Tamil Nadu,
School Education Department,
St.George Fort, Chennai -9
2. The Director of School Education,
College Road, Chennai - 6.
3. The Chief Educational Officer,
Erode District, Erode.
4. The District Educational Officer,
Erode District, Erode - 638 001.

+1cc to Mr.K.Sathish Kumar, Advocate, S.R.No.26392

W.P.No.23707 of 2017

KAN(Co)
CS/30/05/18