

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.34039 of 2017 and
WMP.No.37749/2017

S.Manonmani

.. Petitioner

-vs-

1. The Director of School Education,
College Road, Chennai-9.
2. The Chief Educational Officer,
Coimbatore, Coimbatore District.
3. The District Educational Officer,
Coimbatore, Coimbatore District.
4. The Correspondent,
C.S.I. Girls Higher Secondary School,
Avavashi Road,
Coimbatore District-641 018.

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned Proceedings issued by the 3rd respondent, District Educational Officer, in Na.Ka.No.3687/A5/2017 dated 17.08.2017, quash the same and direct the 3rd respondent, District Educational Officer herein to approve the appointment of petitioner as Record Clerk in the 4th respondent School, namely, C.S.I. Girls Higher Secondary School, Avanashi, w.e.f. 04.11.2016 with all attendant benefits including the arrears of salary and allowance.

For Petitioner : Ms.M.R.Preethi

For Respondents : Mr.M.Digvijaya Pandian,
1 to 3 Additional Government Pleader

ORDER

Questioning the correctness of the impugned order dated 17.08.2017 passed by the 3rd respondent, namely, the District Educational Officer, Coimbatore, Coimbatore District, refusing

the request of the 4th respondent School to accord approval of appointment of the petitioner as Record Clerk in their school.

2. Reiterating the averments made in the affidavit filed in support of the writ petition, the learned Counsel for the petitioner submitted that the 4th respondent School, being a Minority Educational Institution, receiving grant-in-aid from the Government and the said school is also enjoying the benefit of Staff Fixation Order of 2016-2017 dated 02.12.2016 issued by the 3rd respondent herein. While so, one post of Record Clerk in the 4th respondent School fell vacant on 01.09.2016 due to the retirement of one Tmt.K.Gandhimathi, on attaining the age of superannuation on 31.08.2016 and after her retirement in the said sanctioned post, the 4th respondent appointed the petitioner as a Record Clerk on 04.11.2016. Immediately after her appointment, for the purpose of disbursement of grant-in-aid towards her salary, the 4th respondent School has submitted a proposal to the 3rd respondent on 27.06.2017 requesting him to accept the proposal whereas the 3rd respondent without any reason whatsoever rejected the same directing the 4th respondent to resubmit the proposal after getting necessary order from the Government to fill up the non-teaching posts. The said approach adopted by the 3rd respondent is completely running contrary to the settled legal position, namely, when any non-teaching post falls vacant on account of retirement or promotion or removal or transfer etc., the concerned school need not obtain prior permission to fill up the said post, if the said post is already a sanctioned post. The learned Counsel further submitted that in the present case, the Staff Fixation Order issued to the 4th respondent school dated 02.12.2016 by the Education Department clearly shows the sanctioned post of one Record Clerk in the 4th respondent school. This has been completely overlooked by the 3rd respondent.

3. I find merit on the said submissions of the learned Counsel for the petitioner.

4. When the Staff Fixation Order issued by the 3rd respondent to the 4th respondent School, clearly shows the sanctioned post of one Record Clerk in the 4th respondent School, this Court is of the view that the impugned order rejecting the proposal of the 4th respondent School to accord approval to the appointment of the petitioner as Record Clerk in the 4th respondent School is liable to be set aside.

5. At this stage, Mr.M.Dig Vijaya Pandian, learned Additional Government Pleader appearing for the respondents 1 to 3 sought for 4 weeks time to consider the case of the petitioner.

6. In view of all the above, the 3rd respondent is

directed to consider the case of the petitioner on merits and pass appropriate orders in accordance with law within a period of four weeks from the date of receipt of a copy of this Order. Needless to state that the respondents 1 to 3 shall accord approval to the appointment of the petitioner as Record Clerk in the 4th respondent School and pay the arrears of salary from the date of her appointment in the post of Record Clerk.

7. The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Director of School,
Education College Road,
Chennai-09.

2.The Chief Education Officer,
Coimbatore,
Coimbatore District.

3.The District Educational Officer,
Coimbatore,
Coimbatore District.

+2cc to Mrs.M.R.Preethi, Advocate, S.R.No.331

+1cc to the Government Pleader, S.R.No.446

W.P.No.34039 of 2017

RRK(19/01/2018)

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