

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2018

CORAM:

THE HON'BLE MR. JUSTICE T. RAJA

W.P. No.34330 of 2017 & W.M.P. No.38189 of 2017

K.T. Rajalakshmi

Petitioner

vs.

1 The Director of School Education
DPI Campus
College Road
Chennai 600 006

2 The Chief Educational Officer
Panagal Building
Saidapet
Chennai 600 015

3 The District Educational Officer
Chennai North, Egmore
Chennai 600 008

4 The Correspondent
Kannada Sangha Higher Secondary School
No.3, United India Nagar
Ayanavaram
Chennai 600 023

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 1 to 3 to approve the appointment of the petitioner in the regular sanctioned post of Junior Assistant in the 4th respondent school from the date of appointment on 04.05.2015 and to make the payment of salary with interest and other service benefits within a time frame.

For petitioner

Mr. S. Nedunchezhiyan

For RR 1 to 3

Mr. V. Jayaprakash Narayanan
Special Government Pleader

ORDER

Mr.V.Jayaprakash Narayanan, learned Special Government Pleader, accepts notice for respondents 1 to 3. Notice to the fourth respondent is dispensed with, inasmuch as no order prejudicial to its interest, is passed in this writ petition.

2 This writ petition has been preferred by a teacher working in the fourth respondent school, which is a minority educational institution receiving grant-in-aid from the State Government for the teaching and non-teaching staff working in the school, seeking a writ of mandamus directing the respondents 1 to 3 to approve her appointment in the regular sanctioned post of Junior Assistant in the 4th respondent school from the date of appointment on 04.05.2015 and to make payment of salary with interest and other service benefits within a time frame.

3 According to the learned counsel for the petitioner, when the staff fixation order dated 09.10.2014 was issued by the Chief Educational Officer, Saidapet, Chennai, according sanction for appointment of one Junior Assistant, that shows that the fourth respondent school has been sanctioned with one Writer/Junior Assistant post; therefore, when the previous incumbent, viz., N.Saraswathi, who was serving as Junior Assistant, retired on 30.04.2015 on reaching the age of superannuation, in the said sanctioned retirement vacancy, the petitioner was appointed as Junior Assistant with effect from 04.05.2015 and the fourth respondent school also sent a proposal along with the original service certificates on the same day, i.e., 04.05.2015, to the District Educational Officer, Chennai North, Egmore, Chennai, the third respondent, requesting him to accept the proposal and approve the same by releasing grant-in-aid towards salary of the petitioner; but, the said proposal was returned on 08.10.2015 citing the usual reason, i.e., the fourth respondent school, before appointing the petitioner, should have obtained prior approval; hence, this writ petition seeking the aforestated relief.

4 The issue raised in this writ petition, i.e., whether an educational institution is required to obtain prior permission from the school authorities before appointing a person in a sanctioned post, has already been decided by umpteen number of judgments of both Division Benches and Single Benches of this Court. In fact, I too had an occasion to deal with the said issue in W.P. Nos.29998 of 2014, etc. batch, vide order dated 17.03.2017, which squarely covers the case of the petitioner. It is pertinent to extract the relevant passage from the said

order as under:

"5. Thus, the issue is well settled now 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. In the cases on hand, admittedly, the writ petitioners have been appointed against vacancies relating to sanctioned posts as Non-teaching staff in various cadres and therefore, by following the above cited case laws, this Court hereby directs the respective respondents to approve the appointments of the Non-teaching staff by the Private Aided Schools and to sanction the grant within a period of four weeks from the date of receipt of a copy of this order."

5 Thus, when the issue raised in this writ petition is no longer res integra and has been decided in favour of the petitioner, the petitioner is entitled to succeed.

As a sequitur, this writ petition stands allowed with a direction to the official respondents to approve the petitioner's appointment in terms of the staff fixation order dated 09.10.2014 and release her salary, including arrears, within a period of four weeks from the date of receipt of a copy of this order. Costs made easy. Connected W.M.P. is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

cad

To

- 1 The Director of School Education
DPI Campus
College Road
Chennai 600 006

WEB COPY

2 The Chief Educational Officer
Panagal Building
Saidapet
Chennai 600 015

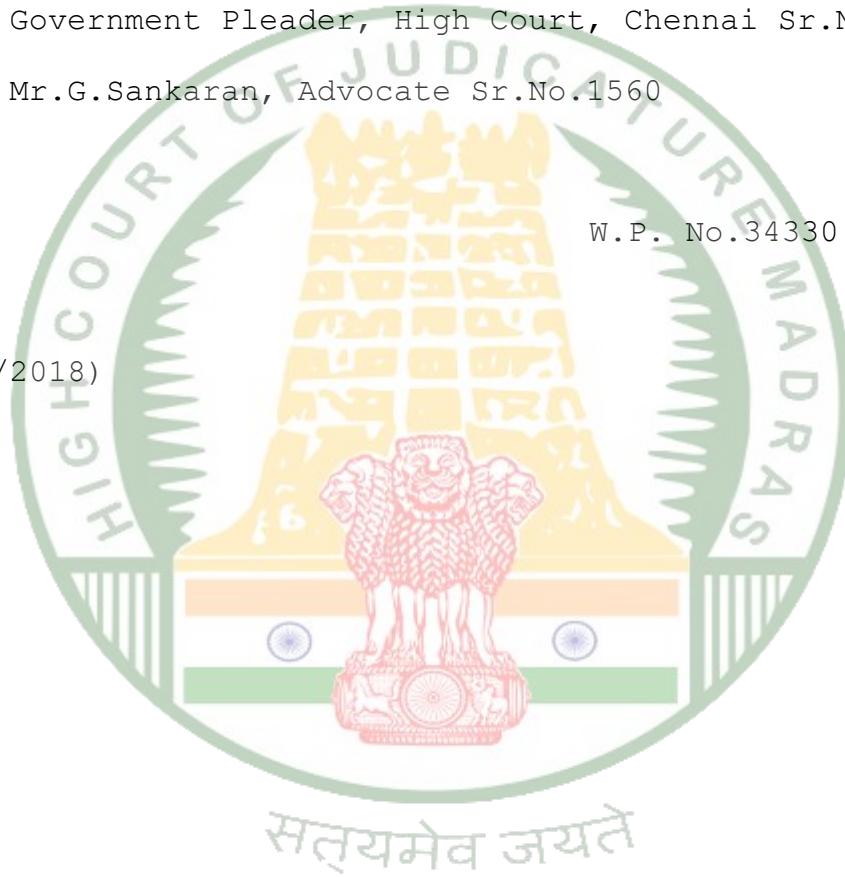
3 The District Educational Officer
Chennai North, Egmore
Chennai 600 008

+1 CC to Government Pleader, High Court, Chennai Sr.No.1450

+1 CC to Mr.G.Sankaran, Advocate Sr.No.1560

W.P. No.34330 of 2017

SJ(CO)
KP(05/02/2018)



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