

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 20.02.2018

CORAM

THE HON'BLE MR.JUSTICE T.RAJA

W.P.No.2626 of 2018

and WMP.No.3253 of 2018

M.Salomina Pushparani

... 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 East,
Chennai-600 094.

4.The Correspondent,
C.S.I. Northwick Girls Higher Secondary School,
Royapuram,
Chennai-600 013. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 to 3 to approve the appointment of the petitioner in the regular sanctioned post of Record Clerk in the 4th respondent school from the date of appointment on 28.08.2014 and to make the payment of salary with interest and other service benefits, within a time frame.

For Petitioner : Mr.G.Sankaran

For Respondents : Mrs.P.Rajalakshmi,
Additional Government Pleader for R1 to R3

O R D E R

This Writ Petition has been filed seeking a mandamus directing the respondents 1 to 3 to approve the appointment of the petitioner in the regular sanctioned post of Record Clerk in the fourth respondent school from the date of appointment on 28.08.2014 and to make the payment of salary with interest and other service benefits, within a reasonable time.

2. Heard the learned counsel appearing for the parties on either side.

3. C.S.I. Northwick Girls Higher Secondary School / fourth respondent herein is an aided minority educational institution receiving aid from the State Government for teaching and non-teaching staff working in their school. While so, on 20.06.2014, vacancy arose for the post of Record Clerk on account of promotion given to Tmt.Veena as B.T. Assistant and the petitioner was appointed in the said post, vide order dated 28.04.2014 passed by the fourth respondent school. The petitioner immediately joined duty in the said post, but she has not been paid with salary for the last more than 2 years and the reason being, her appointment has not been approved. Though the fourth respondent school has sent proposal to the third respondent viz., District Educational Officer, Chennai East, on 10.12.2014, seeking order of approval for appointment of the petitioner as Record Clerk, the third respondent has wrongly keeping the proposal in a cold storage on the premise that the petitioner's appointment can be approved only after obtaining prior permission from the first respondent.

4. The issue whether prior approval should be obtained by a minority or non-minority institution while filling up of non-teaching staff has been considered by this Court in umpteen number of orders and one such order is dated 17.03.2017 passed in W.P.Nos.29998 of 2014 etc., batch [V.J.Manoj Kumar v. The Government of Tamil Nadu, Rep. by its Secretary, Department of School Education, Chennai and others]. It is relevant to extract para 5 of the said order:

"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 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."

The ratio laid down by this Court in the decision extracted above squarely apply to the fourth respondent school, which is an Aided Minority Educational Institution and the petitioner

has been appointed as Record Clerk, as there is no provision in the Private Schools Regulation Act, contemplating prior permission before filling up of non-teaching staff either in minority or non-minority educational institution. Thus, non-grant of approval for appointment of petitioner as Record Clerk in the fourth respondent school, is wholly unacceptable.

5. Therefore, this Writ Petition stands allowed and the respondents 1 to 3 are directed to approve the appointment of the petitioner as Record Clerk in the fourth respondent School with effect from 28.08.2014 and confer her with all monetary benefits within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

-Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

To

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 East, Chennai-600 094.

+ 1 cc to The Government Pleader Sr.No.13677

+1 cc to the M/s.G.Sankaran Advocate sr 2123 dt 08/03/2018

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W.P.No.2626 of 2018

RRI 07/03/2018

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