

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.2864 & 2865 of 2018

S.Devaraj ..Petitioner in W.P.No.2864 of 2018
D.Durai Shankar ..Petitioner in W.P.No.2865 of 2018

-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,
Chennai 600 008
4. The Secretary
Singaram Pillai Higher Secondary School
Villivakkam
Chennai 600 049 ..Respondents in both the Writ Petitions

Petitions under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents 1 to 3 to approve the appointments of the petitioners in the regular sanctioned posts of Lab Assistant and Gardener in the fourth respondent School from the date of appointment on 13.11.2017 & 15.03.2017 respectively, and to make the payment of salary with all consequential service benefits, within a time frame to be fixed by this Hon'ble Court.

For Petitioners :: Mr.G.Sankaran

For Respondents :: Mrs.P.Rajalakshmi
Additional Government Pleader
for R1 to 3

ORDER

These two writ petitions have been filed seeking issuance of a mandamus directing the respondents 1 to 3 to approve the appointments of the petitioners in the posts of Lab Assistant and Gardener in the fourth respondent School from the date of appointment on 13.11.2017 & 15.03.2017 respectively, and to pay the salary including arrears of salary with all consequential service benefits.

2. Learned counsel for the petitioners submitted that the Singaram Pillai Higher Secondary School, Villivakkam, Chennai, the fourth respondent herein is a government aided school receiving grant-in-aid from the State Government for the teaching and non-teaching staff working in the school. While so, one vacancy in the non-teaching post of Lab Assistant arose on account of the retirement of one Mr.H.Mohammed with effect from 31.12.2016. Similarly, one another non-teaching post of Gardener arose on account of the promotion given to Mr.U.Govindasamy as Office Assistant on 1.8.98. The fourth respondent school appointed the petitioners as Lab Assistant and Gardener on 13.11.2017 and 15.3.2017 respectively. Immediately thereafter, proposals were also sent on 15.11.2017 and 19.4.2017 to the District Educational Officer, Chennai North, the third respondent herein seeking approval of their appointments. Along with the proposals, the staff fixation order dated 5.12.2017 was also enclosed indicating therein that these two posts were sanctioned by the Chief Educational Officer, Chennai, the second respondent herein. The relevant portion of the staff fixation order shows that the Chief Educational Officer, Chennai, has already, considering the students and staff strength, sanctioned the posts of Lab Assistant and Gardener. Since one of the Lab Assistants Mr.H.Mohammed retired from service with effect from 31.12.2016 and another Gardener Mr.U.Govindasamy was promoted as Office Assistant on 1.8.98, the fourth respondent was bound to fill up these sanctioned posts, when they fell vacant on the aforementioned dates, without prior permission.

3. Heard Mrs.P.Rajalakshmi, learned Additional Government Pleader for the respondents.

4. Admittedly, the staff fixation order dated 5.12.2017 issued by the Chief Educational Officer, Chennai indicates that the fourth respondent school was sanctioned with the posts of Lab Assistant and Gardener. Therefore, the fourth respondent school is entitled to fill up the said posts without getting prior permission, as per the order passed by this Court in W.P.Nos.29998 of 2014 etc., dated 17.3.2017 (V.J.Manoj Kumar & others v. State of Tamil Nadu represented by its Secretary, Department of School Education and others), wherein it has been

held as follows:-

"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."

5. In the light of the above, the respondents 1 to 3 are hereby directed to approve the appointments of the petitioners in the posts of Lab Assistant & Gardener in the fourth respondent school from the date of appointment on 13.11.2017 and 15.3.2017 respectively and sanction the salary including arrears within a period of four weeks from the date of receipt of a copy of this order. With the above direction, the writ petitions are allowed. Consequently, W.M.P.Nos.3535 & 3536 of 2018 are closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

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

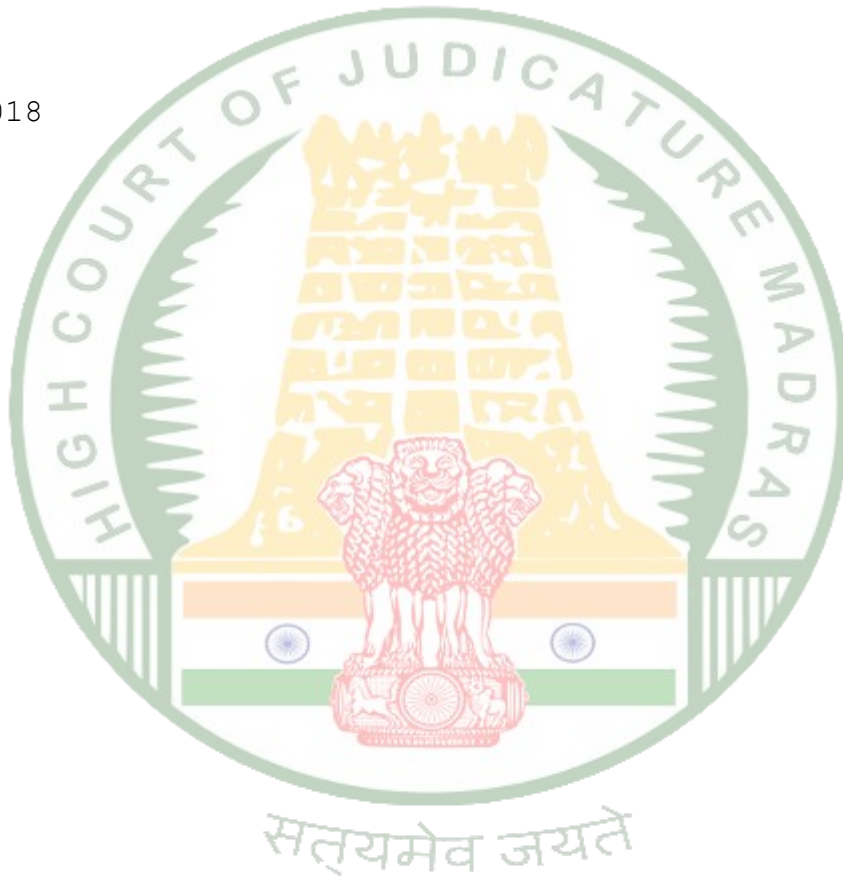
2. The Chief Educational Officer
Panagal Building
Saidapet
Chennai 600 015

3. The District Educational Officer
Chennai North
Chennai 600 008

+2 ccs to M/s.G.Sankaran Advocate sr 10682
+1 cc to Govt Pleader sr 10974

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