

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE SATRUGHANA PUJAHARI

W.P.No.17380 of 2018

S.Prakash

... Petitioner

Vs

1. The District Educational Officer,
Thiruvallur, Tiruvallur District

2. The Correspondent,
Sacred Heart Girls Higher Secondary School,
Perambakkam Village, Kilacheri Post,
Thiruvallur District ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the first respondent to approve the appointment of the petitioner as Gardener-Cum-Sweeper from the date of his joining the said post on 01.02.2018 and pay salary and other benefits to the petitioner by considering the proposal sent by the 2nd respondent management on 01.02.2018 and to pass orders thereon on merits and in accordance with law within in a time to be stipulated by this Court.

For Petitioner : Mr.G.Ganesan

For Respondents: Mrs.P.Kavitha,
Government Advocate for R1

O R D E R

This writ petition has been filed by the petitioner with a prayer to direct the first respondent to approve the appointment of the writ petitioner in the post of Gardener-Cum-Sweeper from the date of his joining in the said post on 01.02.2018 and pay salary and other benefits to the petitioner by considering the proposal sent by the 2nd respondent management on 01.02.2018.

2. It appears that the Sacred Heart Girls Higher Secondary School is a minority aided School. The petitioner was appointed by the said School as Gardener-cum-Sweeper on 01.02.2018 against

a sanctioned post, vacancy to which occurred due to the retirement of one, Mr.V.Selvaraj on 31.05.2017. After his appointment, the second respondent sent a proposal to the first respondent to approve the appointment of the writ petitioner, but no order was passed on the same. It is the case of the petitioner that Government of Tamil Nadu vide G.O.Ms.No.189 P & AP Department 29.07.2009 ordering to fill up the vacancies of Junior Assistant and Office Assistant on a priority basis. Subsequently, G.O.Ms.No.203 P & AR Department dated 23.07.2010 was passed which mandates the approval of certain categories of non-teaching staff like Junior Assistant, Librarian, Laboratory Assistant, Record Clerk and Office Assistant from the date of appointment. Since the petitioner was also appointed as non teaching staff namely Gardner cum Sweeper of the second respondent school, a proposal also has been sent on 01.02.2018 by the second respondent recommending the approval the appointment of the petitioner from the date of appointment. But the first respondent has not taken any steps to approve the appointment of the petitioner, hence this writ petition seeking the relief as stated earlier.

3. No counter affidavit has been filed by the respondents in spite of opportunity given. The learned counsel for the first respondent however sought for adjournment which I am not inclined to grant inasmuch as this case is a covered one as submitted by the learned counsel for appearing for the petitioner.

4. It appears that the petitioner was appointed against a sanctioned post. For appointment in a non teaching sanctioned post in an aided educational institution, no prior approval of the Government is necessary. The case of the petitioner has also been recommended by the second respondent to the first respondent. In spite of the same, the first respondent has not acted on such recommendation. Therefore, the learned counsel for the petitioner submits that direction may be issued to the first respondent to approve his appointment from the date he was appointed against the sanctioned vacancy, more so when the case of the petitioner is covered by the decision of this Court rendered in W.P.(MD).No.14115 to 14119 of 2016 etc., batch cases.

5. In response, the learned counsel appearing for the first respondent submits that there is no impediment to grant the approval to the petitioner, in view of the fact that the matter is covered by the decision of this Court in number of writ petitions particularly in WP.(MD) Nos.11481 of 2008 so also, the aforesaid Government order has been quashed in the aforesaid writ petitions.

6. Heard the submissions of the learned counsel appearing for the petitioner as well as the learned counsel appearing on behalf of first respondent.

7. Considering the fact that the learned counsel appearing for the petitioner submits that the case of the petitioner is covered by the decisions rendered in the aforesaid writ petitions, which is also not disputed by the learned counsel for the first respondent, this writ petition stands disposed of, with a direction to the first respondent to reconsider the approval of appointment of the petitioner taking note of the aforesaid decision rendered in the aforesaid cases, within a period of four weeks from the date of receipt of copy of this order.

8. With the aforesaid order, this writ petition stands disposed of. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

The District Educational Officer,
Thiruvallur, Tiruvallur District.

+lcc to Mr.P.Ganesan, Advocate Sr.50696

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W.P.No.17380 of 2018

srg 5/9/2018