



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2018

CORAM :

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THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P(MD)Nos.7094 to 7097 of 2018

V.V.Higher Secondary School
rep. by its Secretary,
Ponnamaravathy - 622 407
Pudukkottai District.

... Petitioner in
all petitions

Vs.

The District Educational Officer,
Pudukkottai,
Pudukkottai District.

... Respondent in
all petitions

Prayer in WP(MD) . 7094/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondent herein to approve forthwith the appointment of K.Balamurali as Junior Assistant in the petitioner school from 05.12.2017 onwards with salary and other attendant benefits.

Prayer in WP(MD) . 7095/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondent herein to approve forthwith the appointment of A.Adaikkappan as Watchman in the petitioner school from 05.12.2017 onwards with salary and other attendant benefits.

Prayer in WP(MD) . 7096/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondent herein to approve forthwith the appointment of P.Thillaichandran as Officer Assistant in the petitioner school from 05.12.2017 onwards with salary and other attendant benefits.

Prayer in WP(MD) . 7097/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of mandamus directing the respondents herein to approve forthwith the appointment of C.Sarathkumar as Lab Assistant in the petitioner-school from 05.12.2017 onwards with salary and other attendant benefits.



For Petitioner : Mr.E.V.N.Siva

For Respondent : Mr..J.Gunaseelan Muthiah, AGP

O R D E R

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The prayer sought for in these writ petition is for a writ of Mandamus, directing the respondent herein to approve forthwith the appointments of K.Balamurali as Junior Assistant, A.Adaikkappan as Watchman, P.Thillaichandran, as Office Assistant and C.Sarathkumar as Lab Assistnat in the petitioner-school from 05.12.2007 onwards with salary and other attendant benefits.

2.In these batch of writ petitions, the petitioner school claimed that it is a recognised aided school, where some non teaching posts, which have already been sanctioned, had been filled up with qualified candidates and when the proposal to approve the said appointments had been sent to the respondent, the same had not been considered and it is kept pending. When the petitioner enquired about the delay in approving the said appointments, it has been claimed to have been informed that because of the government decision reflected in G.O.Ms.No.115, School Education (D2) Department, dated 30.05.2007, the said appointments should not have been made without prior approval of the competent authority and since these appointments have been made without prior approval, it cannot be approved. Though no such order has been passed in any of these writ petitions by the respondent rejecting the request of the writ petitioner, the learned counsel for the petitioner would submit that, that is the reason as has been mentioned above, proposals are still kept pending.

3.I have heard Mr.J.Gunaseelan Muthiah, learned Additional Government Pleader appearing for the respondent.

4.The issue raised in these writ petition has already been decided in a number of cases by this Court and the lead case in this regard is Deva Asir V. The Secretary to Government, School Education Department and others reported in 2016-3-L.W.152. In the said case, when the same issue was raised, the learned Judge has held as follows in para 38 of the said judgment, which reads thus:

"38. In the result, for the details reasons mentioned above,

(i) All these writ petitions are allowed.

(ii) Impugned G.Os., namely, G.O.Ms.No.115, School Education Department, dated 30.05.2007 and G.O.Ms.No.203, School Education Department, dated 23.07.2010 and Government Letter No.8884/D1/2011-2, dated 09.07.2012, are quashed.



(iii) The impugned orders of the DEOs/DEEOs refusing to approve of the appointments of various non-teaching posts in these writ petitions are set aside and the official respondents are directed to approve of those appointments of the non-teaching staff in the Private Aided Schools concerned in these writ petitions and to sanction grant.

(iv) Wherever writ of Mandamus is sought for, a direction is issued to the respondents to approve of the appointments of the non-teaching staff in the Private Aided Schools and to sanction grant.

(v) The official respondents are directed to comply with the aforesaid directions within a period of six weeks from the date of receipt of a copy of this order.

However, there will be no order as to costs. Consequently, connected miscellaneous petitions are closed."

5.The said legal position is not in controversy and the learned Additional Government Pleader also would fairly state that the issue raised in this writ petition is covered by the said decision.

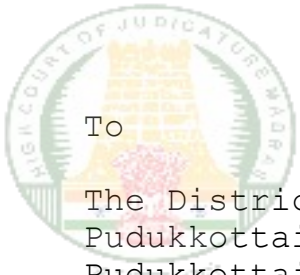
6.In view of the above settled legal as well as factual position of these cases, these writ petitions are disposed of by this common order with the following direction.

7.The proposals for appointments of non teaching staff in each of these writ petitions by the petitioner institution shall be considered and necessary orders to be passed by the respondent for approval of those appointments of non teaching staff on the petitioner school and the needful shall be done, within a period of four weeks from the date of receipt of a copy of this order. It is needless to mention that once such approval is given, such non teaching staffs appointed and approved shall be entitled to claim salary and other service benefits from the date of original appointment made by the petitioner school against each of the non teaching staff.

8.With this direction, all the writ petitions are disposed of. No costs.

Sd/-
Assistant Registrar (CS-I)

/True copy/



To

The District Educational Officer,
Pudukkottai,
Pudukkottai District.

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+4CC TO M/S.E.V.N.SIVA, ADVOCATE, SR NO.60127,60128,60129 & 60130
+1CC TO SPECIAL GOVERNMENT PLEADER, SR NO.59933

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