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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.06.2018

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) Nos.6844 to 6850 of 2018

and

W.M.P. (MD) Nos.6580 to 6593 of 2018

The Secretary,
MSP Solai Nadar Memorial Secondary School,
No.54/8, G.T.N. Salai,
Dindigul District - 624 005.

: Petitioner in All cases

Vs.

1. The Director of School Education,
College Road, Chennai - 600 006.
2. The Chief Educational Officer,
Dindigul, Dindigul District.
3. The District Educational Officer,
Dindigul, Dindigul District.

: Respondents in All cases

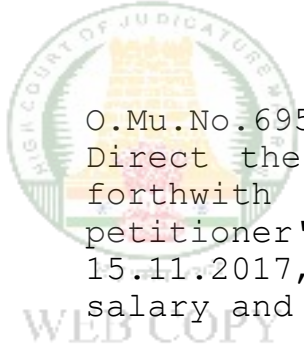
Prayer in W.P. (MD) No. 6844/2018: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceeding issued by the third respondent District Educational Officer in O.Mu.No.6965/A1/2017 dated 05.03.2018, quash the same and further direct the third respondent District Educational Officer to approve forthwith the appointment of G.Karthick as Watchman in the petitioner's school w.e.f. the date of his appointment viz., 15.11.2017, with all attendant benefits including the arrears of salary and allowances.

Prayer in WP (MD) No. 6845/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceeding issued by the 3rd respondent District Educational Officer in O.Mu.No.6963 / A1 / 2017 dated 05/03/2018, quash the same and further direct the 3rd respondent District Educational Officer to approve forthwith the appointment of V.Nagendran as Lab Assistant in the petitioner's school w.e.f the date of his appointment viz., 15/11/2017 with all attendant benefits including the arrears of salary and allowances.

Prayer in WP (MD) No. 6846/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceeding issued by the 3rd respondent District Educational Officer in



O.Mu.No.6959/A1/2017 dated 05.03.2018, quash the same and further Direct the 3rd respondent District Educational Officer to approve forthwith the appointment of M.Ganesan as Scavenger in the petitioner's school w.e.f. the date of his appointment viz., 15.11.2017, with all attendant benefits including the arrears of salary and allowances.

Prayer in WP(MD)No. 6847/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceeding issued by the 3rd respondent District Educational Officer in O.Mu.No.6964 / A1 / 2017 dated 05/03/2018, quash the same and further direct the 3rd respondent District Educational Officer to approve forthwith the appointment of D.Gunavathi as Office Assistant in the petitioner's school w.e.f the date of her appointment viz., 15/11/2017 with all attendant benefits including the arrears of salary and allowances.

Prayer in WP(MD)No. 6848/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceeding issued by the 3rd respondent District Educational Officer in O.Mu.No.6960 / A1 / 2017 dated 05/03/2018, quash the same and further direct the 3rd respondent District Educational Officer to approve forthwith the appointment of S.Jeyaperumal as Sweeper in the petitioner's school w.e.f the date of his appointment viz., 15/11/2017 with all attendant benefits including the arrears of salary and allowances.

Prayer in WP(MD)No. 6849/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceeding issued by the 3rd respondent District Educational Officer in O.Mu.No.6962 / A1 / 2017 dated 05/03/2018, quash the same and further direct the 3rd respondent District Educational Officer to approve forthwith the appointment of K.Muthukrishnan as Record Clerk in the petitioner's school w.e.f the date of his appointment viz., 15/11/2017 with all attendant benefits including the arrears of salary and allowances.

Prayer in WP(MD)No. 6850/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceeding issued by the 3rd respondent District Educational Officer in O.Mu.No.6961/A1/2017 dated 05.03.2018, quash the same and further Direct the 3rd respondent District Educational Officer to approve forthwith the appointment of M.Muralikrishnan as Office Assistant in the petitioner's school w.e.f. the date of his appointment viz., 15.11.2017, with all attendant benefits including the arrears of salary and allowances.



For Petitioner : Mr.K.Ragatheesh Kumar
For Respondents : Mr.D.Muruganantham
Additional Government Pleader
[In all Writ Petitions]

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ORDER

The prayer sought for in the respective writ petitions are as follows:

PRAYER in W.P.(MD)No.6844 of 2018:

"..... this Hon'ble Court may be pleased to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceeding issued by the third respondent District Educational Officer in O.Mu.No.6965/A1/2017 dated 05.03.2018, quash the same and further direct the third respondent District Educational Officer to approve forthwith the appointment of G.Karthick as Watchman in the petitioner's school w.e.f. the date of his appointment viz., 15.11.2017, with all attendant benefits including the arrears of salary and allowances and pass such further or other suitable Order / Orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render Justice."

PRAYER in W.P.(MD)No.6845 of 2018:

"..... this Hon'ble Court may be pleased to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceeding issued by the third respondent District Educational Officer in O.Mu.No.6963/A1/2017 dated 05.03.2018, quash the same and further direct the third respondent District Educational Officer to approve forthwith the appointment of V.Nagendran as Lab Assistant in the petitioner's school w.e.f. the date of his appointment viz., 15.11.2017, with all attendant benefits including the arrears of salary and allowances and pass such further or other suitable Order / Orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render Justice."

PRAYER in W.P.(MD)No.6846 of 2018:

"..... this Hon'ble Court may be pleased to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceeding issued by the third respondent District Educational Officer in O.Mu.No.6959/A1/2017 dated 05.03.2018, quash the same and further direct the third respondent District Educational Officer to approve forthwith the appointment of M.Ganesan as Scavenger in the petitioner's school w.e.f. the date of his appointment viz., 15.11.2017, with all attendant benefits



including the arrears of salary and allowances and pass such further or other suitable Order / Orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render Justice."

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PRAYER in W.P.(MD)No.6847 of 2018:

"..... this Hon'ble Court may be pleased to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceeding issued by the third respondent District Educational Officer in O.Mu.No.6964/A1/2017 dated 05.03.2018, quash the same and further direct the third respondent District Educational Officer to approve forthwith the appointment of D.Gunavathi as Office Assistant in the petitioner's school w.e.f. the date of his appointment viz., 15.11.2017, with all attendant benefits including the arrears of salary and allowances and pass such further or other suitable Order / Orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render Justice."

PRAYER in W.P.(MD)No.6848 of 2018:

"..... this Hon'ble Court may be pleased to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceeding issued by the third respondent District Educational Officer in O.Mu.No.6960/A1/2017 dated 05.03.2018, quash the same and further direct the third respondent District Educational Officer to approve forthwith the appointment of S.Jeyaperumal as Sweeper in the petitioner's school w.e.f. the date of his appointment viz., 15.11.2017, with all attendant benefits including the arrears of salary and allowances and pass such further or other suitable Order / Orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render Justice."

PRAYER in W.P.(MD)No.6849 of 2018:

"..... this Hon'ble Court may be pleased to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceeding issued by the third respondent District Educational Officer in O.Mu.No.6962/A1/2017 dated 05.03.2018, quash the same and further direct the third respondent District Educational Officer to approve forthwith the appointment of K.Muthukrishnan as Record Clerk in the petitioner's school w.e.f. the date of his appointment viz., 15.11.2017, with all attendant benefits including the arrears of salary and allowances and pass such further or other suitable Order / Orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render Justice."



PRAYER in W.P.(MD)No.6850 of 2018:

"..... this Hon'ble Court may be pleased to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceeding issued by the third respondent District Educational Officer in O.Mu.No.6961/A1/2017 dated 05.03.2018, quash the same and further direct the third respondent District Educational Officer to approve forthwith the appointment of M.Muralikrishnan as Office Assistant in the petitioner's school w.e.f. the date of his appointment viz., 15.11.2017, with all attendant benefits including the arrears of salary and allowances and pass such further or other suitable Order / Orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render Justice."

2.Heard Mr.K.Ragatheesh Kumar, learned Counsel appearing for the petitioner and Mr.D.Muruganantham, learned Additional Government Pleader appearing for the respondents.

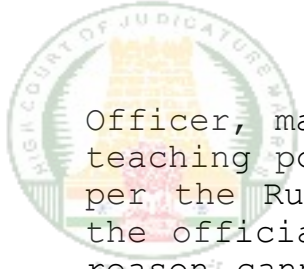
3.All the seven writ petitions are filed by the very same petitioner ie.,The Secretary, MSP Solai Nadar Memorial Secondary School, No.54/8, G.T.N. Salai, Dindigul District - 624 005. The said school has given appointment to non-teaching staff, 7 in numbers and in respect of each of the cases, the proposals sent by the petitioner school had been rejected by order dated 05.03.2018, where the third respondent has given a reason that, the school, without getting prior approval from the second respondent, Chief Educational Officer, had filled up the posts and therefore, the said proposals cannot be considered. Accordingly, the proposals were rejected / returned.

4.The learned Counsel appearing for the petitioner would submit that, since all these appointments are pertaining to non-teaching staff, for which, prior permission or approval, as per the Rule, is not required, the said reason, which is the only reason cited in the impugned order, cannot be accepted.

5.Mr.D.Muruganantham, learned Additional Government Pleader appearing for the respondents fairly submits that, the said reason cannot be justifiable and therefore, the matter can be remanded to the respondents for re-consideration.

6.I have considered the submissions made by both sides and I have perused the impugned orders passed in these writ petitions.

7.As has been rightly pointed out by the learned Counsel for the petitioner and endorsed by the learned Additional Government Pleader appearing for the respondents, the said reason that obtaining an NOC or prior permission from the Chief Educational



Officer, may not be sustainable, where the posts filled up are non-teaching posts of the petitioner school. For such appointments, as per the Rule, no prior permission or NOC need to be obtained from the official respondents or authority concerned and therefore, such reason cannot be a ground for rejecting / returning the proposals. Hence, this Court has no hesitation to quash the impugned orders. Accordingly, the impugned orders are quashed.

8. In the result, the writ petitions are ordered and the matters are remanded back to the respondents, especially, the second respondent, Chief Educational Officer, who shall re-consider the said proposals of appointments of non-teaching staff of the petitioner school and pass orders on merits, within a period of six weeks from the date of receipt of a copy of this order.

9. Since, the proposals have been returned / rejected through the impugned orders, the returned / rejected proposals shall be re-submitted by the petitioner school within a period of one week from the date of receipt of a copy of this order and thereafter, the consideration, as indicated above, shall be undertaken by the second respondent.

The writ petitions are disposed of, accordingly. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (SAR-II)

To

1. The Director of School Education,
College Road, Chennai - 600 006.
2. The Chief Educational Officer,
Dindigul, Dindigul District.
3. The District Educational Officer,
Dindigul, Dindigul District.

+1CC to Mr.K.Ragatheesh Kumar, Advocate, SR.No.68362

+1CC to the Special Government Pleader SR.No. 68238

W.P. (MD) Nos.6844 to 6850 of 2018

13.06.2018

MR