



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 27.08.2018

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHANW.P(MD)No.18273 of 2018

R.Vinoth

..Petitioner

Vs

1.The Secretary to Government,
Department of School Education,
Secretariat,
Fort St.George,
Chennai.

2.The Director of School Education,
DPI Campus,
Chennai-6.

3.The District Educational Officer,
Musiri.

3.The Secretary,
Swamy Vivekananda Vidyalayam Higher Secondary School,
Vairichettipalayam - 621 012,
Trichy District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the official respondents to approve the Petitioner's appointment cum transfer in the fourth respondent school as Office Assistant from the date of joining on 2.7.2018 by considering the proposal dated 9.7.2018 sent by the fourth respondent within the time stipulated by this Court.

For Petitioner :Mr.R.Manimaran

For Respondents :Mrs.S.Srimathi

1 to 3

Special.Govt.Pleader

ORDER

The Petitioner has come forward with this Writ Petition seeking for issuance of a Writ of Mandamus directing the official respondents to approve the Petitioner's appointment cum transfer in the fourth respondent school as Office Assistant from the date of joining on 2.7.2018 by considering the proposal, dated 9.7.2018 sent by the fourth respondent within the time stipulated by this Court.



2. Mrs. S. Srimathi, learned Special Government Pleader takes notice for the respondents 1 to 3. By consent of both parties, the main Writ Petition itself is taken up for final disposal at the admission stage itself.

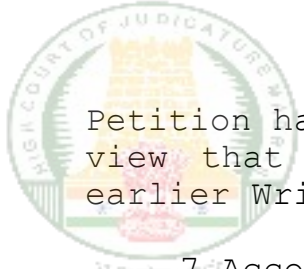
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3. The Petitioner's case is that the Petitioner joined the service of the fourth respondent-school on compassionate grounds, due to the death of his father and that he has got a family, having two children and the Petitioner was placed as Night Watchman and his service was also approved after getting orders from this Court in W.P(MD)No.1969 of 2017, dated 23.2.2017. After approval of the post, the Petitioner has now sought for an alternative post of Office Assistant and his service has to be considered and regularized taking note of the proposal, dated 9.7.2018 which was sent by the fourth respondent/School to the office of the third respondent and the third respondent has requested the fourth respondent/School, to furnish a copy of the order wherein approval has been granted for the said transfer.

4. The only contention of the Petitioner is that the post of Night Watchman and Office Assistant are having the same scale of pay and there is no harm going to be caused to the respondents in approving the post of Office Assistant from the date of joining in the post of Night Watchmen I.e., from 2.7.2018.

5. In the present case, this Court cannot go into the question whether the above said two posts carry the same scale of pay or equal post or feeder category to a different post. The Petitioner has brought to the attention of this Court, the order passed by this Court in W.P(MD)No.1969 of 2017, dated 23.2.2017 wherein I had an occasion to consider the case, wherein, it has been observed that the Petitioner would be entitled for appointment to the post of Watchman and the service has to be regularized in the said post. When this Court had already passed an order directing the official respondents therein to approve the appointment of the Petitioner therein as Watchman from the date of joining service with applicable benefits, the present request seeking alternate employment and approval on the ground that the post of Office Assistant is equivalent to the post of Night Watchman, cannot be acceded to.

6. It is unfortunate that litigants are approaching this Court for appointment on compassionate grounds and many of the employees are standing in queue, wherein, separate seniority list is provided. Having the benefit of the order passed in the earlier Writ Petition, the Petitioner has approached this Court seeking the prayer that he must be considered to the post of Office Assistant. It is needless to state that it is for the respondent concerned to consider the same and this Court cannot direct approval of petitioner's appointment in the post of Office Assistant instead of Night Watchman as sought for in this Writ Petition. Thus, the Writ



Petition has no merits. After seeing the present prayer, I am of the view that this Court should not have granted the relief in the earlier Writ Petition.

7. Accordingly, the Writ Petition stands dismissed. Even though it is a fit case for imposing cost of not less than Rs.50,000/-, taking note of the fact that the Petitioner is a Watchman, this Court refrain to impose costs.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-I)

To

- 1.The Secretary to Government,
Department of School Education,
Secretariat,
Fort St.George,
Chennai.
- 2.The Director of School Education,
DPI Campus,
Chennai-6.
- 3.The District Educational Officer,
Musiri.

+1CC TO MR.R.MANIMARAN, ADVOCATE IN S.R.NO.80291.
+1CC TO SPECIAL GOVERNMENT PLEADER IN SR.NO.80638.

VSN
DS RP SAR-1:27.09.2018: 3P/6C

ORDER MADE IN

W.P(MD)No.18273 of 2018

27.08.2018