



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE **G.R. SWAMINATHAN**

W.P. (MD) No. 22404 of 2017

WEB COPY

Mahesh Devamani Devaraj

... Petitioner

-Vs-

1. The Secretary to Government,
Education Department,
State of Tamil Nadu,
St. Fort George,
Chennai-9.
2. The Director of School Education,
College Road, Chennai-6.
3. The District Educational Officer,
Tirunelveli District,
Tirunelveli.
4. Cathedral Higher Secondary School,
Rep by its Headmaster,
Palayamkottai,
Tirunelveli District.

... Respondents

(R4 is impleaded vide Court order dated
09.02.2018 in W.M.P. (MD) No. 2762 of 2018)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records in respect of order passed by third respondent in Na.Ka.No.3947/A3/2017 dated 19.10.2017 and quash the same and consequently direct the third respondent to approve the appointment of the petitioner from 01.09.2017 and further direct the respondents to disburse all service and monitory benefits to the petitioner from 01.09.2017.

For Petitioner	: Mr.S.Chellapandian
For R1 to R3	: Mr.K.Saravanan
	Government Advocate
For R4	: Mr.C.Ganeshkumar

ORDER

The Petitioner was appointed in the fourth respondent School as Office Assistant on 24.07.2017. It is not in dispute that the appointment was made in a sanctioned post and the petitioner is having the eligible qualification to be appointed



so. But, when the proposal was submitted by the Management to appoint the petitioner in the said post, the third respondent declined to approve the proposal on the ground that the incumbent Suthanthararaj was yet to be relieved from service. It is not in dispute that the said Suthanthararaj reached the age of superannuation on 30.08.2017. When the incumbent occupying the said post has reached the age of superannuation, the said post automatically fell vacant. Therefore the management can appoint the petitioner in the said vacancy.

2.The reason assigned in the impugned order is not sustainable in law. Hence the impugned order passed by the third respondent is quashed and the third respondent is directed to approve the appointment of the writ petitioner in the said post with effect from 01.09.2017 and disburse all service and monitory benefits to the petitioner without causing any delay.

3.Accordingly, this Petition is allowed. No costs.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Education Department,
State of Tamil Nadu,
St. Fort George,
Chennai-9.
2. The Director of School Education,
College Road, Chennai-6.
3. The District Educational Officer,
Tirunelveli District,
Tirunelveli.

+1cc to Mr.S.Chellapandian, Advocate SR.No.54654

+1cc to The Spl.Government Pleader Sr.No 54924

TA

VB/KKR/SAR2/16/03/2018/2P/6C

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12.03.2018