



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **11.12.2019**

CORAM

THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

W.P (MD)No.10690 of 2015

and

M.P (MD)No.2 of 2015

WEB COPY

1.The Correspondent,
Devi Higher Secondary School,
Kunnamgal, Variyakudy Post,
Kanyakumari District.

2.G.Asokumar

.. Petitioners

Vs.

1.The Government of Tamil Nadu
rep. by its Secretary,
Education Department,
Fort St. George,
Chennai - 600 009.

2.The Director of School Education,
College Road,
Chennai - 600 006.

3.The Chief Educational Officer,
Kanyakumari District,
Nagercoil - 1.

4.The District Education Officer,
Thuckalay,
Kanyakumari District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents herein to continue the sanction of the record clerk post sanctioned vide G.O.Ms.No.341 and 342, Education dated 01.04.1992 and continued as per G.O.Ms.No.179, Education D(1) Department, dated 17.06.1999 as recommended by the respondents 3 and 4 in proceedings in Na.Ka.No.4195/A2/03, dated 13.08.2003 with all salary, back wages service benefits and emoluments from the date of appointment on 12.09.1994 made in the Devi Higher Secondary School, Kunnamagal, Kanyakumari District insofar as the 2nd petitioner is concerned and pass such further or other orders.

For Petitioners

: Mr.Joseph Thatheus Jerome



For Respondents

: Mr.N.Shanmugaselvam,
Additional Govt. Pleader.

ORDER

This writ petition has been filed for issuance of a Writ of Mandamus directing the respondents to continue the sanction of the record clerk post sanctioned vide G.O.Ms.No.341 and 342, Education, dated 01.04.1992 and continued as per G.O.Ms.No.179, Education D(1) Department, dated 17.06.1999 and recommended by the respondents 3 and 4 in proceedings in Na.Ka.No. 4195/A2/03, dated 13.08.2003 with all salary, back wages service benefits and emoluments from the date of appointment on 12.09.1994 made in Devi Higher Secondary School, Kunnamagal, Kanyakumari District insofar as the 2nd petitioner is concerned.

2.Heard the learned counsel appearing for the petitioners and the learned Additional Government Pleader appearing for the respondents.

3.The case of the petitioners is that the 1st petitioner school is an aided school. The school was initially established as a High School in the year 1980 and it was upgraded as Higher Secondary School in the year 1986. The 2nd petitioner was appointed as Record Clerk w.e.f. 12.09.1994 in the vacancy caused due to the resignation of one Jayalakshmi. After filing writ petition, the Government passed G.O.Ms.No.340 and G.O.Ms.No.341, dated 01.04.1992, granting one record clerk post with effect from 03.06.1982 for two years. In similar appointment of Record Clerk in St.Alysious High School, Kasangadu, Kanyakumari District, the Government had granted continuance of salary vide G.O.Ms.No.179, Education, dated 17.08.1999. The 2nd respondent Director of School Education, vide proceedings, dated 28.03.2003, directed the 3rd respondent, Chief Education Officer, to send the proposal to continue the sanction of the record clerk post. The 4th respondent, District Educational Officer, recommended for continuance of sanction to the post of Record Clerk, vide proceedings dated 13.08.2003. While so, the 2nd petitioner had been promoted as Junior Assistant on 01.04.2011 and the respondents also did not approve the same, for which, the 2nd petitioner also filed W.P(MD)No.7773 of 2015. Therefore, the 2nd petitioner sent representation dated 12.01.2015 to the respondents 2 and 3. Since the same has not been considered so far, this writ petition has been filed.

4.The learned counsel for the petitioners submitted that the 2nd respondent Director of School Education, vide proceedings, dated 28.03.2003, directed the 3rd respondent, Chief Educational Officer, to send the proposal to continue the sanction of the record clerk post and the 4th respondent, District Educational Officer, recommended the continuance of sanction of the post of Record Clerk in the 1st petitioner school, vide proceedings dated 13.08.2003. In similar appointment of Record Clerk in St.Alysious High School, Kasangadu, Kanyakumari District, the Government had granted



continuance of salary, vide G.O.Ms.No.179, Education, dated 17.08.1999.

5.The learned Additional Government Pleader appearing for the respondents submitted that the 1st petitioner school is eligible to get grant-in-aid to the post of Record Clerk only for 2 years from 03.06.1982 to 03.06.1984 as per G.O.Ms.No.340 and 341, but the 2nd petitioner had been appointed only on 12.09.1994 and during the said appointment, the post of Record Clerk is totally an unsanctioned post. G.O.Ms.No.179, dated 17.06.1999 has been passed only in favour of St.Sloysis High School in respect of the upgradation of the post of Record Clerk into a post of Junior Assistant. The 2nd petitioner could not take a queue from the recommendations of the respondents 2 and 4, dated 28.03.2003 and 13.08.2003. The Government is at liberty to accept or reject the said recommendations.

6.It is true that 2nd respondent Director of School Education, vide proceedings, dated 28.03.2003, directed the 3rd respondent, Chief Educational Officer, to send the proposal to continue the sanction of the record clerk post and the 4th respondent, District Educational Officer, recommended for continuance of sanction for the post of Record Clerk, vide proceedings, dated 13.08.2003, to the third respondent. In similar appointment of Record Clerk in St.Alysious High School, Kasangadu, Kanyakumari District, the Government had granted continuance of salary vide G.O.Ms.No.179, Education, dated 17.06.1999.

7.In view of the above, the 1st respondent, is directed to consider the approval for continuance of sanction to the post of Record Clerk in the 1st petitioner school, in the light of the proceedings of the 3rd respondent, dated 28.03.2003 and the proposal submitted by the 4th respondent, vide proceedings, dated 13.08.2003 as well as G.O.Ms.No.179, Education, dated 17.08.1999 and pass appropriate orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order, if no order has been passed.

8.The writ petition is disposed of on the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Secretary,
Education Department,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.

2.The Director of School Education,
College Road,
Chennai - 600 006.

3.The Chief Educational Officer,
Kanyakumari District,
Nagercoil - 1.

4.The District Education Officer,
Thuckalay,
Kanyakumari District.

+1 CC to M/s.M.JOSEPH THATHEUS JEROM, Advocate (SR-104422[F] dated 11/12/2019)

+1 CC to M/s.SPL.GP (SR-105004[F] dated 13/12/2019)

W.P (MD) No.10690 of 2015
11.12.2019

KK/SAR/03.01.2020/4P-7C/