



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.10.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.21497 of 2019

and

W.M.P. (MD) No.18158 of 2019

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Kowsalya

... 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-600 009.

3.The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.

4.The District Educational Officer,
Cheranmahadevi District,
Tirunelveli.

5.The Correspondent,
West Tirunelveli Higher Secondary School,
Nallur,
Tirunelveli District.

... Respondents

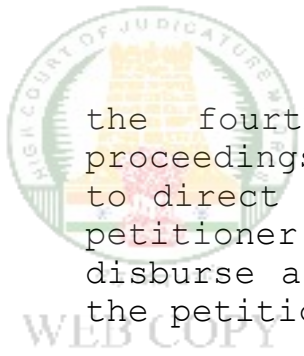
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records in respect of order passed by the fourth respondent in Na.Ka.No.1065/22/2019 dated 15.05.2019 and quash the same and consequently direct the fourth respondent to approve the appointment of petitioner as Waterman at 5th respondent school and disburse all the service and monetary benefits from 12.12.2018 to the petitioner.

For Petitioner: Mr.S.Chellapandian

For R1 to R4 : Mr.A.Thiagarajan,
Government Advocate

ORDER

<https://hcservices.ecourts.gov.in/hcservices> This Writ Petition is filed to quash the order issued by



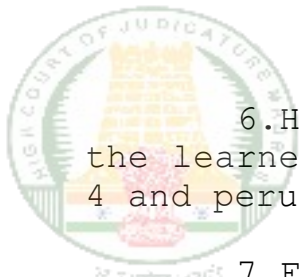
the fourth respondent / District Educational Officer, vide proceedings in Na.Ka.No.1065/2/2019 dated 15.05.2019 and further to direct the fourth respondent to approve the appointment of the petitioner as Scavenger in the fifth respondent school and disburse all the service and monetary benefits from 12.12.2018 to the petitioner.

2. According to the petitioner, she was appointed as Scavenger on 12.12.2018 in the fifth respondent school due to the death of one Ganesan on 05.12.2018. The fifth respondent has submitted a proposal to the fourth respondent on 28.03.2019, for approval of the said appointment with effect from 12.12.2018 and disburse grant-in-aid towards salary. However, the fourth respondent has returned the same, by his proceedings dated 28.03.2019, stating that as per G.O.Ms.No.238, School Education (Pa.Ka.6(1) Department, dated 13.11.2018, apart from the post of Junior Assistant or Record Clerk, Office Assistant and Watchman, other posts can be allowed to continue till the retirement of present incumbents and restrains the schools from filling up such post. Challenging the said order of the fourth respondent, the petitioner has come out with the present Writ Petition.

3. The learned counsel appearing for the petitioner has raised various grounds for setting aside the impugned order of the fourth respondent and mainly contended that the fifth respondent school filed W.P.(MD)No.20505 of 2019, challenging the Government Order in G.O.Ms.No.238, dated 13.11.2018, wherein this Court, by its order dated 24.09.2019 has granted interim stay and the same is pending before this Court. The learned counsel appearing for the petitioner mainly contended that the post of Scavenger is necessary in the school for keeping the school clean, especially, toilets.

4. The learned counsel appearing for the petitioner further contended that another school filed Writ Petition in W.P.(MD) No.11895 of 2019, challenging the said Government Order, wherein this Court, by its order dated 15.05.2019, granted status quo. In view of the order of status quo and the interim order granted by this Court, the said impugned order of the fourth respondent is invalid and prayed for allowing the Writ Petition.

5. The learned Government Advocate appearing for the respondents submitted that the Government Order in G.O.Ms.No.238, School Education (Pa.Ka.6(1) Department, dated 13.11.2018, is still in force and the same is not set aside by this Court. The petitioner is not entitled to take advantage of the interim order granted pending disposal of the Writ Petitions and prayed for dismissal of the Writ Petition.



6. Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents 1 to 4 and perused the materials available on record carefully.

7. From the materials on record, it is seen that after death of one Ganesan from the post of Scavenger on 05.12.2018, the petitioner was appointed as Scavenger in the sanctioned post with effect from 12.12.2018. When the fifth respondent sought for approval from the fourth respondent, a proposal sent to the fourth respondent, was returned by the fourth respondent on the ground that as per the Government Order in G.O.Ms.No.238, dated 13.11.2018, the fifth respondent school is not entitled to fill up the said post. The said ground is not valid at present, as this Court has ordered status quo in W.P.(MD)No.11895 of 2019 as well as granted interim stay in W.P.(MD)No.20505 of 2019. At the same time, it is to be noted that the Writ Petitions are pending and no final orders are passed thereon. In such situation, the order of the fourth respondent is quashed. The third respondent is directed to approve the appointment of the petitioner as Scavenger, subject to the result of the Writ Petition in W.P.(MD) No.20505 of 2019, filed by the fifth respondent, challenging the Government Order in G.O.Ms.No.238, dated 13.11.2018.

8. With the above direction, this Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar (CS)

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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-600 009.



3.The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.

4.The District Educational Officer,
Cheranmahadevi District,
Tirunelveli.

+1 CC to Mr.S.CHELLAPANDIAN, Advocate (SR-93767[F] dated
23/10/2019)

+1 CC to M/s.GP (SR-94048[F] dated 23/10/2019)

W.P. (MD) No.21497 of 2019
22.10.2019

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