



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.21202 of 2016

and

W.M.P (MD) .Nos.15148 and 17129 of 2016

WEB COPY

M.Senthil Kumar

...Petitioner

-Vs-

1.The Joint Director (Personal)
Directorate of School Education
DPI Complex, College Road
Chennai 600 006

2.The District Education Officer
District Education Office
Kovilpatti
Tuticorin District

... Respondents

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the order in Na.Ka.No.4009/A1/2016, dated 19.10.2016 passed by the 2nd respondent and quash the same.

For Petitioner : Mr.Rajesh Saravanan
For R1 : Mr.A.Thiyagarajan
Government Advocate
For R2 : Mrs.S.Srimathi
Special Government Pleader

ORDER

This Writ Petition has been filed to call for the records relating to the order in Na.Ka.No.4009/A1/2016, dated 19.10.2016 passed by the 2nd respondent and quash the same.

2.The petitioner's father was working as Secondary Grade Teacher at Ketchilapuram Urachi Onriyam Primary School in Tuticorin District. He died on 28.03.2015 while he was in service, leaving behind the petitioner and his sister as legal heirs. The petitioner's mother pre-deceased. Hence, the petitioner applied for appointment on compassionate ground on 07.07.2016 before the second respondent. The second respondent considered the representation of the petitioner and appointed him as Record Clerk vide his proceedings in Na.Ka.No.4009/A1/2016, dated 15.09.2016 on



temporary basis in Kalampatti Government Higher Secondary School. The petitioner joined service on 16.09.2016. While so, on 13.10.2016, the second respondent issued a show cause notice to the petitioner stating that as to why his appointment should not be cancelled, as he was over qualified to the post of Record Clerk and the application for appointment on compassionate ground made by other persons earlier, are pending. The petitioner gave his explanation to the second respondent on 17.10.2016. The second respondent without considering the explanation and giving opportunity of personal hearing to the petitioner, cancelled the appointment given to him by his proceedings dated 19.10.2016. Challenging the said order, the petitioner has come up with the present writ petition.

3.The learned counsel appearing for the petitioner contended that the second respondent has issued a show cause notice for cancellation of appointment order on the ground that the petitioner is over qualified to the post of Record Clerk. On the same day, the second respondent recommended the petitioner to the Joint Director of School Education to the post of Record Clerk. The second respondent only after considering the facts and circumstances, appointed the petitioner as Record Clerk. The reason given by the second respondent for cancelling the appointment order is not valid. In any event, the first respondent may be directed to approve the appointment of the petitioner and prayed for allowing this Writ petition.

4.The respondents filed a counter affidavit. Mr.A.Thiyagarajan, learned Government Advocate appearing for the first respondent, submitted that the petitioner is over qualified for the post of Record Clerk and he was appointed contrary to the Government Order. Further, the petitioner was appointed on compassionate ground on temporary basis and prayed for dismissal of this Writ petition.

5.Heard Mr.Rajesh Saravanan, learned counsel appearing for the petitioner, Mr.A.Thiyagarajan, learned Government Advocate appearing for the first respondent and Mrs.S.Srimathi learned Special Government Pleader appearing for the second respondent.

6.From the materials on record, it is seen that the petitioner's father died while he was in service. On 07.07.2016, the petitioner made an application to the second respondent for appointment on compassionate ground. The second respondent considered the same and appointed the petitioner as Record Clerk on 15.09.2016 and the petitioner joined duty on 16.09.2016. It is not the case of the respondents that the petitioner misrepresented or suppressed his educational qualification and got appointment. Having considered all the materials produced by the petitioner, the second respondent appointed the petitioner as Record Clerk. In fact, the



as Record Clerk and forwarded the proposal for approval to the first respondent on the same day. Therefore, it is not open to the respondents to cancel the said order on the ground that the petitioner is over qualified and it is in violation of G.O.Ms.No.560 Labour and Employment Department, 03.08.1977. The second respondent has cancelled the appointment of the petitioner on the ground that he is over qualified to be appointed as Record Clerk. Curiously recommended the appointment of the petitioner as Record Clerk to the first respondent and sought permission of the first respondent for approval on the same day. The action of the second respondent that recommending the petitioner to be appointed as Record Clerk to the first respondent makes the reason given by the second respondent for cancelling the appointment of the petitioner, is invalid. Further, it is not the case of the respondents that the petitioner and his sister are not in indigent condition that the petitioner is not entitled to be appointed as Record Clerk. The petitioner is working as Record Clerk from 16.09.2016. The recommendation of the second respondent for approval of appointment is pending from 19.06.2016 with the first respondent.

7. In view of the above reason, the impugned order of the first respondent dated 19.10.2016 vide Na.Ka.No.4009/A1/2016, is set aside. The first respondent is directed to pass orders by granting approval for appointment of the petitioner as Record Clerk on the recommendation of the second respondent dated 19.10.2016 within a period of four weeks from the date of receipt of a copy of this order.

8. In the result, this Writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar (CS)

msa

To

1. The Joint Director (Personal)
Directorate of School Education
DPI Complex, College Road
Chennai 600 006

<https://hcservices.ecourts.gov.in/hcservices/>



2.The District Education Officer
District Education Office
Kovilpatti
Tuticorin District

3.The Government Advocate,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/s.Special Government Pleader,SR.No. 95956

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