



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.09.2020**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

WEB COPY

W.P.(MD) No.11421 of 2020
and
W.M.P.(MD) No.9996 of 2020
(Through Video conferencing)

E.Sudhakar Daniel

...Petitioner

-Vs-

1.The State of Tamil Nadu,
rep. by its Secretary,
School Education Department,
Secretariat, Chennai.

2.The Director of School Education,
O/o.the Director of School Education,
D.P.I.Complex, Chennai.

3.The District Educational officer,
O/o.the District Educational Office,
Vallioor, Tirunelveli District.

4.The Hon'ble Mr.Justice D.Hariparanthaman,
(Retd.)
The Hon'ble Administrator,
Concordia Higher Secondary School,
Vallioor, Tirunelveli District.

5.The Correspondent,
Concordia Higher Secondary School,
Vallioor, Tirunelveli District.

...Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a writ of Mandamus, to direct the 3rd respondent to approve the petitioner's appointment as Record Clerk in the 5th respondent's institution w.e.f.13.06.2018 in conformity with the order passed by the Hon'ble Administrator, the 4th respondent herein vide his proceedings Nil dated 17.06.2020 and consequently to disburse the salary along with the arrears thereof within the period that may be stipulated by this Court.

For Petitioner : Mr.B.Anandan

For Respondents : Mr.M.Thilagar, G.A. For RR1 to 3
Mr.M.Mohamed Imran for M/s Ajmal
Associates for R4

**ORDER**

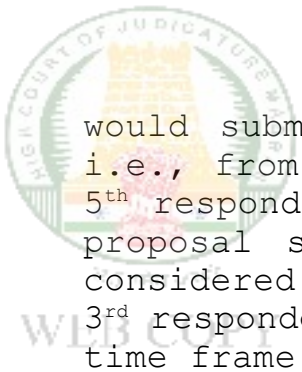
The Prayer sought for in this writ petition is for a writ of Mandamus, to direct the 3rd respondent to approve the petitioner's appointment as Record Clerk in the 5th respondent's institution w.e.f.13.06.2018 in conformity with the order passed by the Hon'ble Administrator, the 4th respondent herein vide his proceedings Nil dated 17.06.2020 and consequently to disburse the salary along with the arrears thereof within the period that may be stipulated by this Court.

2.The 5th respondent school is a recognised minority aided school, where, there is a post called Record Clerk, where, one A.Mary Isabella was working. Since she was promoted to the post of Junior Assistant, the said post of Record Clerk became vacant, where, the petitioner was appointed by the 5th respondent school, as per the committee meeting of Indian Evangelical Lutheran Church, Nagercoil Synod, which was held on 16.04.2018, accordingly, an order of appointment was given on 13.06.2018 by the school, appointing the petitioner as Record Clerk from that date. Since then, the petitioner had been working there as a Record Clerk.

3.Pursuant to the said appointment, a proposal seeking approval of the said appointment had been sent by the 5th respondent school on 27.06.2018 with all relevant documents to the 3rd respondent. However, the same was not immediately considered. Thereafter, it seems that, the petitioner along with some similarly placed employees of the school, filed a writ petition in W.P.(MD) No.5113 of 2019, where, a direction was given by the Court on 05.03.2019 to consider the request / representation of each of the petitioners therein including the petitioner. Subsequently, a former Judge of this Court was appointed as Administrator of the Corporate Management i.e., I.E.L.C. and he passed a detailed order on 17.06.2020 in respect of various appointments made in various schools under the said Corporate Management, where, the appointment of the petitioner also had been taken into account and accordingly, he passed an order that, the appointment made to the petitioner has to be approved.

4.Pursuant to all these developments, since the proposal for approval sent on 27.06.2018 by the school through the Correspondent was not considered and was kept pending, the Headmaster of the school, on 29.07.2020, has sent a reminder, that is also pending. Despite all these efforts, since no order so far has been passed, the petitioner, has approached this Court by filing the present writ petition with the aforesaid prayer.

<https://hcservices5.south.gov.in/hcservices/> learned counsel appearing for the petitioner, who



would submit that, the petitioner from the date of appointment, i.e., from the year 2018, has been working as Record Clerk at the 5th respondent school without getting salary. Therefore, the said proposal sent as early as on 27.06.2018 may be directed to be considered and necessary orders to that effect to be passed by the 3rd respondent, who is competent authority to pass orders, within a time frame to be stipulated by this Court.

6. Heard the learned Government Advocate appearing for the official respondents, who would submit that, though the appointment was made in June 2018 and a proposal was sent on 27.06.2018, subsequently, there is a direct management, there is no correspondent as of now in the 5th respondent school and the school has already been paid under the direct payment of salary/teaching grant and therefore, in that circumstances, the Principal of the school does not have any power to forward the proposal of the appointment. Hence, the said proposal sent by the school Principal dated 29.07.2020 cannot be considered, he contended.

7. I have heard the said submissions made by the learned counsel for both sides and have perused the materials placed before this Court.

8. Though it was contended by the learned Government Advocate that, the school is under direct payment, therefore, the Headmaster of the school cannot send proposal, the said reason cannot be countenanced, because, the school Headmaster, on 29.07.2020 has not given any new proposal and has sent only reminder stating that, the appointment of the petitioner was made on 13.06.2018 by the school and the correspondent to that effect had given or sent the proposal for approval on 27.06.2018 itself with all necessary documents and the same still has been kept pending in the 3rd respondent office, without deciding the same, therefore, that was brought to the notice of the 3rd respondent. Hence, it cannot be construed that the Headmaster of the school had sent the proposal, instead, the proposal was already sent by the correspondent of the school. Hence, there can be no impediment for the 3rd respondent to consider the same and decide it on merits.

9. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

"The respondents, especially, the 3rd respondent is hereby directed to process the proposal for approval of appointment sent by the 5th respondent school management dated 27.06.2018 in respect of the appointment of the petitioner as Record Clerk at the 5th respondent school in sanctioned vacancy w.e.f.



13.06.2018 and pass orders thereon, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order."

10. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Arul

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Secretary,
State of Tamil Nadu,
School Education Department,
Secretariat, Chennai.
2. The Director of School Education,
O/o. the Director of School Education,
D.P.I. Complex, Chennai.
3. The District Educational officer,
O/o. the District Educational Office,
Vallioor, Tirunelveli District.

+1 CC to M/s.GP (SR-16856[F] dated 15/09/2020)

Order made in

W.P. (MD) No. 11421 of 2020

11.09.2020

(CO)

AP(03/11/2020) 4P 5C