



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE **M.S.RAMESH**

W.P.(MD) No.26293 of 2019

and

W.M.P.(MD) No.22697 of 2019

Livingston Raja

... Petitioner

vs.

1.The Secretary to Government
Education Department,
State of Tamil Nadu,
Secretariat, St. fort George,
Chennai-9.

2.The Director of School Education,
College Road, Chennai-6.

3.The District Educational Officer,
Thoothukudi District.

4.The Correspondent,
Tucker Higher Secondary School,
Pannaivilai-628 751.
Thoothukudi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 3rd respondent in his proceedings in Na.Ka.No.3002/A1/2019, dated 26.09.2019 and quash the same and consequent direction may be issued to respondents to pay the monetary benefits and service benefits for the period from 07.02.2006 to 01.08.2009 as Office Assistant in 4th respondent school within stipulated time.

For Petitioner : Mr.T.A.Ebenezer

For R1 to R3 : Mr.A.Thiyagarajan
Government Advocate



O R D E R

When the petitioner herein had earlier filed writ petition in W.P.No.11433 of 2009 seeking for approval of his appointment as Office Assistant in the 4th respondent school from his date of initial appointment (i.e.) from 07.02.2006 onwards, this Court, by order dated 03.02.2009 had allowed the writ petition and directed the respondents to approve the petitioner's appointment as Office Assistant from the date of his appointment. The said order was not challenged by the respondents. Thereafter, when the respondents failed to implement the earlier order of this Court dated 03.02.2009, the petitioner had filed W.P.No.3535 of 2019 and this Court, through its order dated 18.02.2019 had directed the respondents to consider the petitioner's representation dated 03.12.2018, wherein, the petitioner had also referred to the earlier order of this Court. In spite of the order of this Court, the present impugned order has been passed by approving the petitioner's appointment from 01.08.2009, which is contrary to the specific directions of this Court. In the earlier order of this Court in W.P.No.11433 of 2009, the directions whereas follows:-

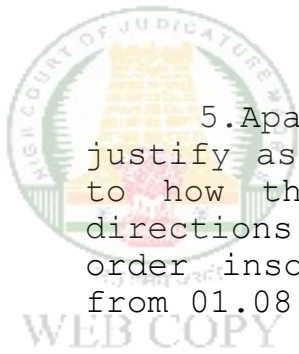
"...6.Considering the above facts and circumstances, I am inclined to set aside the impugned proceeding of the third respondent dated 19.09.2006 and consequently direct the respondents to approve the appointment of the petitioner as Office Assistant from the date of his appointment. The said exercise has to be carried out by the respondents within a period of six weeks from the date of receipt of a copy of this order. The writ petition is ordered accordingly. No costs. Consequently, connected miscellaneous petitions are closed."

2.The aforesaid order has become final. While that being so, there was no option left to the respondents, except to adhere to the aforesaid order and approve the petitioner's appointment as Office Assistant from his date of appointment (i.e.)from 07.02.2006.

3.The impugned order is totally in disregard to the order of this Court passed in W.P.No.11433 of 2009. Likewise, when the petitioner had given a representation on 03.12.2018 referring to the earlier order of this Court, such a plea taken by the petitioner was also not met by the respondents in the impugned order.

4.Curiously, the respondents had chosen to make an observation in the impugned order stating that the petitioner will not challenge the impugned order before the Court and had also referred to an affidavit of the petitioner in a Rs.20/- non-judicial stamp paper. This Court is unable to comprehend as to how such an undertaking can be obtained from the petitioner, when there is a legal right vested with the petitioner to challenge any adverse orders that may be

<https://hcservices.ecourts.gov.in/hcservices/>
passed against him.



5. Apart from this aspect, the impugned order does not speak or justify as to how the approval was effected from 01.08.2009 and as to how the respondents had chosen to deviate from the earlier directions of this Court. While that being so, the entire impugned order insofar as giving approval to the petitioner's appointment from 01.08.2009, is illegal.

6. In the light of the above observations, the impugned order dated 26.09.2019 in Na.Ka.No.3002/A1/2019, on the file of the third respondent, insofar as relates to the approval giving effect from 01.08.2009, stands quashed. Consequently, the third respondent herein is directed to issue amended approval order approving the petitioner's appointment as Office Assistant from 07.02.2006. Such an exercise shall be completed atleast within a period of six weeks from the date of receipt of a copy of this order.

7. The Writ Petition stands allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020
Sub Assistant Registrar(CS)

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,
Thoothukudi District, Thoothukudi.

+1 CC to M/s. Special Govt. Pleader (SR-981[F] dated 09/01/2020)
+1 CC to M/s. T.A. EBENEZER, Advocate (SR-772[F] dated 08/01/2020)

W.P. (MD) No.26293 of 2019
08.01.2020

sj i

SDS (03.02.2020) 3P-6C