



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.P.NOS.13015, 13052, 13074 AND 13288 OF 2021
W.M.P.NOS.13821, 13822, 13852, 13853, 13880,
13883, 14108, AND 14109 OF 2021

W.P.No.13015 of 2021

S.Uma Maheshwari

.. Petitioner

Versus

1. The State of Tamil Nadu
Rep by its Secretary,
Department of School Education,
Fort St. George,
Chennai - 600 009.
2. The Director of School Education,
College Road,
Chennai - 600 009.
3. The Chief Education Officer,
Coimbatore,
Coimbatore District.
4. The District Educational Officer,
Coimbatore,
Coimbatore District.
5. The Correspondent,
Shree Baldevdas Kikani Vidyamandir
Higher Secondary School,
R.S.Puram,
Coimbatore District - 641 002.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 3rd respondent CEO in O.Mu.No.2837/A4/2019 dated 13.02.2020 and the consequential proceedings issued by the 4th respondent DEO in O.Mu.No.386/Aa2/2019 dated 16.12.2020 quash the same and further



direct the 3rd respondent Chief Educational Officer and 4th respondent District Educational officer to approve forthwith the appointment of petitioner as Office Assistant in the 5th respondent School namely, Shree Baldevdas Kikani Vidyamandir Higher Secondary School R.S.Puram, W.e.f the date of appointment viz. 10.08.2018 with all attendant benefits including the arrears of salary and allowances.

W.P.No.13074 of 2021

S.Karuppasamy

.. Petitioner

Versus

1. The State of Tamil Nadu
Rep by its Secretary,
Department of School Education,
Fort St. George,
Chennai - 600 009.
2. The Director of School Education,
College Road,
Chennai - 600 009.
3. The Chief Education Officer,
Coimbatore,
Coimbatore District.
4. The District Educational Officer,
Coimbatore,
Coimbatore District.
5. The Correspondent,
Shree Baldevdas Kikani Vidyamandir
Higher Secondary School,
R.S.Puram,
Coimbatore District - 641 002.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 3rd respondent CEO in O.Mu.No.2836/A4/2019 dated 13.2.2020 and the consequential proceedings issued by the 4th respondent DEO in O.Mu.No.385/A2/2019 dated 16.12.2020 quash the same and further Direct the 3rd respondent Chief Educational officer and 4th respondent District Educational Officer to approve forthwith the appointment of petitioner as Scavenger in the 5th respondent school namely, Shree Baldevdas Kikani Vidyamandir Higher



W.P.No.13052 of 2021

.. Petitioner

1. The State of Tamil Nadu
Rep by its Secretary,
Department of School Education,
Fort St. George,
Chennai - 600 009.

3. The Chief Education Officer,
Coimbatore,
Coimbatore District.

5. The Secretary,
Thavathiru Santhalinga Adigalar
Higher Secondary School,
Perur,
Coimbatore District - 641 010.

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceeding issued by the 4th respondent DEO in Na.Ka.No.8982/A-4/2018 dated 09.01.2019 quash the same and further Direct the 3rd respondent Chief Educational Officer and 4th respondent District Educational Officer to approve forthwith the appointment of petitioner as Record Clerk in the 5th Respondent School, namely Thavathiru Santhalinga Adigalar Higher Secondary School, Perur, w.e f. the date of appointment viz., 01.06.2018 with all attendant benefits including the arrears of salary and allowances.



W.P.No.13288 of 2021

N.Prakash

.. Petitioner

Versus

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1. The State of Tamil Nadu
Rep by its Secretary,
Department of School Education,
Fort St. George, Chennai - 600 009.
2. The Director of School Education,
College Road,
Chennai - 600 009.
3. The Chief Education Officer,
Coimbatore,
Coimbatore District.
4. The District Educational Officer,
Perur at Kuniyamuthur,
Coimbatore District.
5. The Secretary,
CBM Sakunthala Vidyalaya High School,
Kovaipudur - 641 042,
Coimbatore District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceeding issued by the 3rd respondent Chief Educational Officer in O.Mu.No.2687/A4/2019 dated 12.02.2020 and the consequential proceedings of 4th respondent District Educational Officer in Na.Ka.No.7725/A4/2018 dated 20.05.2020 quash the same and further direct the 3rd respondent Chief Educational Officer and 4th respondent District Educational Officer to approve forthwith the appointment of petitioner as Watchman in the 5th respondent school namely, C.B.M. Sakunthala Vidyalaya High School, Kovaipudur w.e.f. the date of appointment viz. 24.08.2018 with all attendant benefits including the arrears of salary and allowances.

For Petitioner : Ms.A.Amala
in all Writ Petitions

For Respondents : Mr.C.Kathiravan
in all Writ Petitions Government Advocate



O R D E R

The petitioners in all these writ petitions are non teaching staff, who were working in aided schools.

2.The petitioner in W.P.No.13015 of 2021 was appointed as Office Assistant, the petitioner in W.P.No.13288 of 2021 was appointed as Watchman, the petitioner in W.P.No.13074 of 2021 was appointed as Scavenger and the petitioner in W.P.No.13052 of 2021 was appointed as Record Clerk in the respective schools. In all these cases, the approval for the appointment of the petitioners in the respective schools, was turned down placing reliance on G.O.(Ms)No.238 School Education Department, dated 13.11.2018. Challenging the orders rejecting the approval for appointment of the petitioners, the above writ petitions are filed by the petitioners.

3.The learned counsel for the petitioners submitted that, in all four cases, the order of appointment was against the regular sanctioned vacancies which arose well before the Government Order vide G.O.(Ms)No.238 School Education Department, dated 13.11.2018. The learned counsel for the petitioners also relied upon a few judgements of this Court where it has been held that G.O.(Ms)No.238 School Education Department, dated 13.11.2018 has no application to appointments that were made in respect of posts which were sanctioned and vacant prior to G.O.(Ms)No.238 School Education Department, dated 13.11.2018. The learned counsel also stated that challenging G.O.(Ms)No.238 School Education Department, dated 13.11.2018 itself, several writ petitions have been filed.

4.This Court wanted the learned Government Advocate to verify whether the respondents have preferred any appeal as against the judgements in similar cases. The learned Government Advocate fairly admitted that there is no appeal pending as against any of the judgements cited before this Court by the learned counsel appearing for the petitioner. The learned counsel for the petitioner also states that the judgments of this Court in the writ petitions filed earlier by similarly placed persons have been complied with by the respondents.

5.In W.P.Nos.11574 & 11586 of 2020, in the case of Alwin Martin vs. The Director of School Education and others delivered on 07.10.2020, the learned Single Judge of this Court considered the scope of G.O.(Ms)No.238 School Education Department, dated 13.11.2018 with regard to the appointment of non teaching staffs in aided schools. It is held that G.O.(Ms) No.238 will have only prospective effect. After referring to the previous judgements of this Court earlier, the learned Single



Judge reiterated the position to the effect that proposals submitted for approval of the appointment cannot be rejected on the ground that there is a fall in strength and the post became surplus, where the vacancy arose prior to G.O.(Ms)No.238 School Education Department, dated 13.11.2018.

6.In all these cases, it is admitted that the appointments were made against the posts which fell vacant prior to G.O.(Ms) No.238 School Education Department, dated 13.11.2018. Hence, the approval for the appointment of the petitioners cannot be rejected on the basis of G.O.(Ms)No.238. The position is reiterated in several judgements and in view of the precedents, all the impugned orders are quashed. Consequently, the 3rd respondent in each writ petition is directed to approve the appointment of the petitioners in the respective posts with effect from the date of appointment in the educational institutions and dispose the grant-in-aid towards the petitioners' salary with all attendant benefits from the date of appointment. The 3rd respondent is directed to comply with the directions, within a period of twelve weeks from the date of receipt of a copy of this order.

7.Accordingly, these writ petitions are disposed of with the above directions. Consequently, connected miscellaneous petitions are closed. No Costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssr

To

1. The Secretary,
Department of School Education,
Fort St. George,
Chennai - 600 009.
2. The Director of School Education,
College Road,
Chennai - 600 009.
3. The Chief Education Officer,
Coimbatore, Coimbatore District.



4. The District Educational Officer,
Coimbatore,
Coimbatore District.

WEB COPY

5. The Correspondent,
Shree Baldevdas Kikani Vidyamandir
Higher Secondary School,
R.S.Puram,
Coimbatore

6. The Secretary,
Thavathiru Santhalinga Adigalar
Higher Secondary School,
Perur,
Coimbatore.

7. The Secretary,
CBM Sakunthala Vidyalaya High School,
Kovaipudur - 641 042,
Coimbatore

8. The District Educational Officer,
Perur at Kuniamuthur,
Coimbatore District.

+4ccs to M/S.A.Amala Advocate, S.R.No.33908,33909,33910,33911
+4ccs to the Government Pleader, S.R.No.34029,34030,34031,34032

W.P.Nos.13015, 13052, 13074 and 13288 of 2021
W.M.P.Nos.13821, 13822, 13852,13853, 13880,
13883, 14108, and 14109 of 2021

RLD(CO)
PM(25/08/2021)