

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.17796 of 2014

V.Kannan

... Petitioner

Vs

1. The State of Tamilnadu,
Represented by the Secretary to Government,
Fort St.George, Chennai-600 009.
2. The Director of School Education,
College Road, Chennai - 600 006.
3. The District Educational Officer,
Cheranmahadvi.
4. The Correspondent,
Stella Maris Girls High School,
Tisayanvillai - 627 657,
Thirunelveli District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the third respondent pertaining to the order dated 11.09.2009 vide Ref.No.3837 A1/2009 dated 10.09.2009 and quash the same and consequently direct the Respondents 1 to 3 to approve the order of appointment of the petitioner dated 07.02.2006 as Watchman in the fourth Respondent School and direct the respondents to pay the salary and other benefits to the petitioner from the date of appointment instead of filling up the vacancy for the post of Watchman as per G.O. (Ms) 14 dated 07.02.2006.

(Prayer amended as per order dt.26/10/17
in WMP.No.22179/17 in WP.No.17796/14)

For Petitioner : M/s.M.Malar

For R1 to R3 : Mr.C.Munusamy, Spl.GP

For R4 : No appearance

ORDER

Heard the learned counsel for the petitioner and learned Special Government Pleader appearing for the respondents 1 to 3 and also perused the material available on records. Despite the service of notice, there is no representation for the fourth respondent.

2. Challenging the communication dated 10.09.2009 sent by the third respondent to the fourth respondent, the present writ petition came to be filed. A consequential direction has also been sought to the respondents 1 to 3 to approve the order of appointment of the petitioner dated 07.02.2006 as Watchman in the fourth Respondent School and pay salary and other benefits to the petitioner from the date of appointment, instead of filling up the vacancy for the post of Watchman as per G.O.(Ms) 14 dated 07.02.2006.

3. The case of the petitioner is that he was appointed as a Watchman under the fourth respondent school by order dated 07.02.2006 in the vacancy caused due to retirement of one Mr. Joseph Xaviour. Consequentially, the fourth respondent sent a proposal to the third respondent seeking approval of the petitioner's appointment, but the same was returned by communication dated 10.09.2009. Aggrieved over the same, the petitioner has preferred this writ petition for the aforesaid relief.

4. Upon notice, the respondents 1 to 3 filed a detailed affidavit wherein it is inter alia stated that G.O.Ms.No.14 Personnel and Administrative Reforms (P) Department dated 07.02.2006 is not relevant to the case of the petitioner and his case comes under the purview of G.O.Ms.No.49 Personnel and Administrative Reforms (P) Department dated 14.05.2002 and there is no ban for the petitioner to claim wages for his service from the fourth respondent who employed him and therefore, the fourth respondent is bound to pay wages from the funds of his management to the petitioner regularly every month as long as he allows him in his school. It is further stated therein that from the date of vacancy of watchman post on 01.02.2005, the work of watchman should be outsourced and entrusted on contract basis and it is the obligation of the fourth respondent to inform the petitioner that he is a contract worker and his wages shall be paid from the funds of his management and hence, for the failure to non payment of wages to the petitioner, the fourth respondent is alone responsible. With these averments the respondents 1 to 3 sought to dismiss this writ petition.

5. In the light of the specific averments made in the counter affidavit filed by the official respondents, this Court deems it fit to direct the fourth respondent to consider the

Petitioner's claim and pass appropriate orders on merits and in accordance with law within a period of eight weeks (8) weeks from the date of receipt of a copy of this order.

6. This Writ Petition is disposed of with the above direction.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
The State of Tamilnadu,
Fort St.George, Chennai-600 009.
2. The Director of School Education,
College Road, Chennai - 600 006.
3. The District Educational Officer,
Cheranmahadvi.
4. The Correspondent,
Stella Maris Girls High School,
Tisayanvillai - 627 657,
Thirunelveli District.

+1cc to M/s.Malar, Advocate SR.1202
+1cc to the Government Pleader SR.1605

MG(CO)
CB(23/03/2021)

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