



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.995 of 2020

and W.M.P. (MD)No.804 of 2020

WEB COPY

Arul

... Petitioner

vs.

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 Chief Educational Officer,
Tirunelveli District,
Tirunelveli.

4.The District Educational Officer,
Tirunelveli District,
Tirunelveli.

5.The Correspondent,
St. Xavior's Higher Secondary School,
Palayamkottai,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records in respect of order passed by the 4th respondent in O.MU.No.2631/m2/2019, dated 08.07.2019 and quash the same and consequently direct the 3rd and 4th respondents to approve the appointment of the petitioner as Junior Assistant at 5th respondent school w.e.f. **(*)06.08.2018** and disburse all the service and monetary benefits to the petitioner.

For Petitioner : Mr.S.Chellapandian

For Respondents : Mr.K.S.Selvaganesan,

Govt. Advocate for R1 to R4

ORDER

The petitioner has filed this Writ Petition challenging the order of the 4th respondent in O.MU.No.2631/2/2019, dated 08.07.2019 and for a consequential direction to the respondents 3 and 4 to approve the appointment of the petitioner as Junior Assistant at



fifth respondent school w.e.f. **(*)06.08.2018** and disburse all the service and monetary benefits to the petitioner.

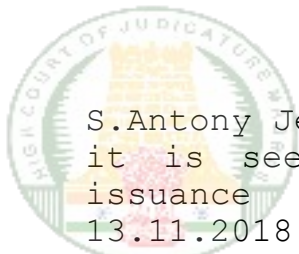
2. According to the petitioner, the fifth respondent school is a minority institution governed by the Tamil Nadu Private Schools [Regulation] Act. The petitioner was appointed as Junior Assistant in the place of one Manuvel, who retired from service on 31.03.2017, on attaining the age of superannuation. The proposal sent by the fifth respondent school for approval of appointment of the petitioner was returned. Again, the fifth respondent resubmitted the proposal for approval of appointment of the petitioner. However, the fourth respondent rejected the said proposal. Challenging the same, the present Writ petition is filed.

3. The learned counsel appearing for the petitioner contended that the reason given by the fourth respondent in the impugned order is invalid and illegal. The Government Order mentioned in the impugned order is subsequent to the appointment of the petitioner and hence the same has no relevance to the petitioner's case. Further, the Writ Petition filed by one S.Antony Jeya Selvan, mentioned in the impugned order is with regard to disciplinary proceedings initiated against the said S.Antony Jeya Selvan. The petitioner was not appointed in the place of S.Antony Jeya Selvan and was appointed in the sanctioned post only due to the vacancy caused on the retirement of one Mr.Manuvel.

4. The fourth respondent has filed counter affidavit. Mr.K.S.Selvaganesan, learned Government Advocate appearing for the respondents 1 to 4 submitted that as per the seniority list of 2018-19, the fifth respondent can have only two Junior Assistants. Already, there are two Junior Assistants in fifth respondent school, in which one of the Junior Assistant S.Antony Jeya Selvan had filed a writ Petition and the same is pending before this Court. The fifth respondent without prior approval, contrary to the fixation of staff strength and G.O.Ms.No.238, School Education Department, dated 13.11.2018, appointed the petitioner and hence, the petitioner is not entitled for approval of his appointment and prayed for dismissal of the Writ Petition.

5. Heard Mr.S.Chellapandian, learned counsel appearing for the petitioner, Mr.K.S.Selvaganesan, learned Government Advocate appearing for the respondents 1 to 4 and perused the materials available on record carefully.

6. According to the petitioner, he was appointed as Junior Assistant in a sanctioned post when one Manuvel, retired from service. The fifth respondent school sent a proposal for approval of his appointment. The same was not approved, on the ground that the appointment is contrary to G.O.Ms.No.238, School Education Department, dated 13.11.2018 and the Writ Petition filed by one



S.Antony Jeya Selvan is also pending. From the materials on record, it is seen that the petitioner was appointed as prior to the issuance of G.O.Ms.No.238, School Education Department, dated 13.11.2018. Further, the petitioner was appointed as Junior Assistant in the sanctioned post in the place of one Manuvel, who retired from service on attaining the age of superannuation. The said claim of the petitioner is not denied by the respondents. Similarly, the fourth respondent has stated in the counter affidavit that as per the seniority list of 2018-19, the fifth respondent school can have only two Junior Assistants. The fourth respondent has not stated whether already two Junior Assistants were working at the time of appointment of the petitioner. Further, it is not the case of the respondents 1 to 4 that the petitioner was appointed in the place of S.Antony Jeya Selvan, who has filed the Writ Petition. Respondents 1 to 4 have not given any details of the Writ petition filed by the said S.Antony Jeya Selvan. The fifth respondent school is a minority institution and no prior permission is required for making appointment.

7. In view of the fact that the petitioner was appointed in the place of one Manuvel, who worked in the sanctioned post and retired from service on attaining the age of superannuation, the order impugned in the Writ Petition is liable to be set aside and accordingly, the same is hereby set aside. Respondents 1 to 4 are directed to consider the proposal sent by the fifth respondent school afresh and pass orders within a period of twelve (12) weeks from the date of receipt of a copy of this order.

8. With the above direction, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

**(*)Amended as per order of this
Hon'ble Court dated 30.09.2021
by DKKJ made in WMP(MD)No.12467/2021
IN WP(MD)No.995/2020**

Sd/-

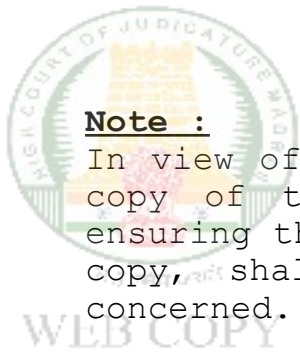
Assistant Registrar (AD-II)

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/ /2021

Sub Assistant Registrar(CS)

Vsm

**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

**(*)To be Substituted the order already despatched
on 03.08.2021**

- 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 Chief Educational Officer,
Tirunelveli District,
Tirunelveli.
- 4.The District Educational Officer,
Tirunelveli District,
Tirunelveli.

+1 CC to M/s.S.CHELLAPANDIAN, Advocate (SR-30942[F]
dated 01/10/2021)

+1 CC to M/s.SPL GP (SR-22109[F] dated 12/07/2021)

W.P(MD)No.995 of 2020
and W.M.P. (MD)No.804 of 2020
09.07.2021

KM(CO)
MGJ(30.07.2021) 4P 7C
GC (25.10.2021) 4P 7C