



W.P(MD)No.10481 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.10.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.10481 of 2021

The Secretary,
Sri Varadha Venkataramana Higher Secondary School,
Venkatachalapuram Post,
Veerapandi (Via),
Theni District.

... Petitioner

Vs

1.The State represented by
The Secretary to Government,
School Education Department,
Secretariat,
Chennai – 9.

2.The Commissioner of School Education,
College Road,
Chennai.

3.The Chief Educational Officer,
Theni,
Theni District.

4.The District Educational Officer,
Theni,
Theni District.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the fourth respondent pertaining to its proceedings in Na.Ka.No. 4182/B2/2021 dated 27.04.2021 and to quash the same and consequently directing the respondents to approve the appointment of one P.Pradeepa as Lab Attender with effect from his date of appointment that is 14.12.2020 and to grant all the service and monetary benefits in consequent to the same within a time frame that may be fixed by this Court by considering the proposal resubmitted by the petitioner dated 11.06.2021.

For Petitioner : Mr.H.C.Herold Singh

For Respondents : Mr.S.Shaji Bino
Special Government Pleader

ORDER

Heard the learned counsel on either side.

2. The writ petitioner is an aided non-minority School started in 1948 as High School. It became a Higher Secondary School in 1978. It is receiving grant-in-aid from the Government. Vacancy arose in the post of Lab Assistant following the retirement of one A.Ramdoss in 31.05.2014. The School Committee passed a resolution to fill up the vacancy. Permission was sought for from the third respondent to appoint an eligible person for the said post. The third respondent also granted permission on 31.12.2019. Based on the said permission, applications were called for and thereafter, one P.Pradeepa was

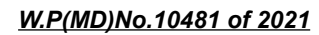


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appointed as Lab Assistant with effect from 14.12.2020. The Management submitted proposal to the fourth respondent for approving the appointment. By the impugned order dated 27.04.2021, the proposal was returned. Questioning the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to quash the impugned order and direct the respondents to approve the appointment in question.

4. The respondents filed a counter affidavit and the learned Special Government Pleader took me through its contents. The learned Special Government Pleader submitted that permission was granted by the third respondent to fill up the vacancy before the end of the academic year 2019-2020. However, the appointment came to be made only on 14.12.2020 which falls in the academic year 2020-2021. Thus, the appointment order is not in consonance with the proceedings whereby the permission was granted. The learned Special Government Pleader would also rely on G.O(Ms)No.238 School Education Department, dated 13.11.2018 to sustain the impugned order. He called for dismissal of the writ petition.



6. G.O(Ms)No.238, School Education Department dated 13.11.2018 states that the vacancy in the post of Lab Assistant will be what was fixed during the academic year 1991-1992 and that no new post of Lab Assistant will be sanctioned. In this case, the School Management wants to fill up only the vacancy created by the retirement of the incumbent. There has been no creation of any new post of Lab Assistant. Therefore, there is no contravention of the aforesaid Government Order.

7. That apart, permission to fill up the vacancy was granted only after the issuance of the aforesaid Government Order. It is true that permission was granted to fill up the vacancy before the end of the academic year 2019-2020. But merely because there was some delay in filling up the vacancy, that cannot lead to the returning of the proposal itself. This stipulation to fill up the vacancy before a particular cut off date cannot be construed as mandatory.

8. I wanted to know the School strength at present. According to the respondents, 706 students were presently studying in the School. The School Management would state that there are 779 students. The requirement



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regarding the student's strength is also fulfilled in this case. Looked at from any angle, there is no justification in returning the petition mentioned proposal.

In that view of the matter, the impugned order is set aside. The petitioner is permitted to re-present the proposal before the third respondent. Immediately after it is received, the third respondent will approve the appointment of P.Pradeepa as Lab Assistant with effect from 14.12.2020 and also disburse the grant-in-aid towards her salary and other allowances immediately and without any delay. This writ petition is allowed. No costs.

20.10.2022

Index : Yes / No
Internet : Yes/ No
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To

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4.The District Educational Officer,
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