



W.P(MD)No.5261 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.10.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5261 of 2018

and

W.M.P.(MD)No.5246 of 2018

M.M.Higher Secondary School,
Rep. by its Correspondent,
Bethelpuram-629 803,
Kanyakumari District.

... Petitioner

Vs.

1.The Secretary to Government,
School Education Department,
St.Fort George,
Chennai.

2.The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.

3.The Chief Educational Officer,
Kanyakumari District,
At Nagercoil.

4.The District Educational Officer,
Thuckalay,
Kanyakumari District-629 175.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call records on the file of the 4th respondent pertaining to order bearing Oo.Mu.No. 4848/A3/2017 dated 18.01.2018 and to quash the same and consequently direct the respondents to approve the appointment of Thiru.M.Holyson Geo Xavier in the post of Vocational Instructor (Computer) from the date of appointment that is from 01.06.2012 by considering the proposal submitted by the petitioner dated 01.06.2012 and disburse monetary and other attendant service benefits, including payment of arrears of salary from the date of appointment ie., 01.06.2012 with interest within a time frame that may be fixed by this Court.

For Petitioner : Mr.S.C.Herold Singh

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

ORDER

Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

2. The writ petitioner is a religious minority school receiving aid from the Education Department. One Y.John Thankiah was working as Vocational Instructor in the computer stream in the writ petitioner school and he retired on 31.05.2012. In the resulting vacancy, one M.Holyson Geo Xavier was appointed with effect from 01.06.2012. The management submitted proposal



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for approval of his appointment. By the impugned order dated 18.01.2018, the fourth respondent returned the proposal. Assailing 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 petition mentioned appointment as prayed for with effect from the date of the appointment.

4. The respondents have filed a detailed counter affidavit and the learned Special Government Pleader took me through the same. He submitted that the impugned order does not call for any interference.

5. I carefully considered the rival contentions and went through the materials on record.

6. No doubt, in the writ petitioner school, there was a post of Vocational Instructor and the incumbent retired on 31.05.2012. The question is whether the school management was entitled to fill up the resulting vacancy.



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7. As rightly pointed out by the learned Special Government Pleader, the post of Vocational Instructor was sanctioned vide G.O.Ms.No.712, Education (HS) Department, dated 28.05.1990 in order to absorb single part-time or double part-time Vocational Instructors in the regular stream. However, it was specifically directed that the posts are person-specific. In other words, as and when the incumbent Vocational Instructor retired, the post also will have to be surrendered. Therefore, the school Management was not justified in appointing M.Holyson Geo Xavier and expecting the Department to approve the same on regular basis. The learned Special Government Pleader drew my attention to the order dated 14.09.2022 made in W.P.(MD)No.22685 of 2019.

8. I had taken the very same view. I therefore have no hesitation to sustain the impugned order to that extent. However, the Government had sanctioned as many as 117 temporary posts of Vocational Instructor (Computer Science) with effect from 01.01.2016. The learned counsel appearing for the petitioner draws my attention to G.O.Ms.No.46, School Education Department, dated 17.02.2020 which contains Annexure, in which, the writ petitioner school figures at Serial No.114. The said G.O in turn refers to G.O.Ms.No.51, dated 14.02.2019. The said G.O extends the temporary posts for a period from 01.01.2019 to 31.12.2019 under G.O.Ms.No.46, dated 17.02.2020. The posts



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were to remain till 31.12.2022. I am thus satisfied that the writ petitioner school has been granted the post of Vocational Instructor (Computer Science) on temporary basis with effect from 01.01.2016 till 31.12.2022. Therefore, Thiru.M.Holyson Geo Xavier appointed by the writ petitioner in the post of Vocational Instructor (Computer) will have to be paid salary in terms of the aforesaid G.Os. The Department is directed to release the requisite grant in this regard forthwith and without any delay. Of-course, the liability of the Department to continue to release grant for paying his salary will depend upon the extension to be granted subsequent to 31.12.2022.

9. The Writ Petition is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

19.10.2022

Index : Yes / No
Internet : Yes/ No
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To

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St.Fort George,
Chennai.
- 2.The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.



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