



W.P(MD)No.22874 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.22874 of 2022

S.Annapoorani

... Petitioner

Vs.

1.The Chief Educational Officer,
Chief Educational Office,
Trichy District.

2.The District Educational Officer,
District Educational Office,
Trichy District.

3.The Secretary,
The Girls Higher Secondary School,
Srirangam - 620 006,
Trichy District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 and 2 to approve the appointment of the petitioner in the sanctioned post of PG Assistant in Commerce in the 3rd respondent school from her date of appointment i.e., 16.11.2020 with all consequential monetary benefits.



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W.P(MD)No.22874 of 2022

For Petitioner : Mr.S.Anwar Sameem

For Respondents : Mr.S.Shaji Bino,
Spl. Government Pleader for R1 & R2.
Mr.R.M.Nixon for R3.

ORDER

Heard the learned counsel on either side.

2.The petitioner was appointed as a P.G. Assistant (Commerce) in the third respondent school. It is non-minority institution and receiving aid from the State. One Kothai who was working P.G. Assistant (Commerce) retired from service on 31.05.2019. Thereupon, the management wrote to the competent authority seeking permission to fill up the said vacancy. The first respondent vide proceedings dated 24.07.2020 granted permission to the management to fill up the vacancy subject to certain conditions. In terms of the conditions set out in the said order, the management filled up the vacancy by appointing the petitioner herein vide order dated 16.11.2020. The proposal was submitted to the first respondent through the second respondent seeking approval. Since it has not been considered, the present writ petition has been filed.



W.P(MD)No.22874 of 2022

WEB COPY

3. The issue raised in the writ petition had already been decided by me in a quite few decisions. Vide order dated 20.10.2022 in W.P.(MD)No.10487 of 2021. I had held as follows:-

“6. 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.

7. 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 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 S.Saravanakumar as Office Assistant with effect from 14.12.2021 and also disburse the grant-in-aid towards his salary and other allowances immediately and without any delay.”



W.P(MD)No.22874 of 2022

WEB COPY

4. Adopting the very same approach, the first respondent is directed approve the petition mentioned appointment with effect from 16.11.2020. The salary grant and all other benefits will be disbursed without any delay.

5. The writ petition is allowed accordingly. No costs.

01.12.2022

Index : Yes / No
Internet : Yes/ No
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To:

1. The Chief Educational Officer,
Chief Educational Office,
Trichy District.
2. The District Educational Officer,
District Educational Office,
Trichy District.



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W.P(MD)No.22874 of 2022



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W.P(MD)No.22874 of 2022

G.R.SWAMINATHAN, J.

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W.P(MD)No.22874 of 2022

01.12.2022