



WP (MD) No.22122 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 23.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P.(MD)No.22122 of 2021
and
W.M.P.(MD)No.18712 of 2021

R.Mahalingam

: Petitioner

Vs.

1.The Commissioner of School Education,
O/o.the Commissioner of School Education,
DPI Complex,
Chennai.

2.The Chief Educational Officer,
O/o.the Chief District Educational Officer,
Madurai,
Madurai District.

3.The District Educational Officer,
O/o.the District Educational Officer,
Thirumangalam,
Madurai District.

4.The Secretary,
Arulmigu Andavar Subramania Swamy Girls
Higher Secondary School,
Thirupparankundram,
Madurai District.

: Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Mandamus directing the fourth respondent to forward the proposal to the third respondent for regularizing the service of the petitioner as Office Assistant and consequently, directing the third respondent to regularize the service of the petitioner as Office Assistant in the fourth respondent School with effect from the date of his initial appointment, ie., 01.09.2011 and pay arrears of salary with all consequential benefits.

For Petitioner : Mr.C.Venkatesh Kumar

For Respondents : Mr.G.V.Vairam Santhosh,
Additional Government Pleader
for R.1 to R.3

Mr.S.Manohar for R.4

ORDER

This writ petition is filed by the petitioner for a mandamus directing the fourth respondent to forward the proposal for appointing this petitioner as Office Assistant and consequently directing the third respondent to regularize the petitioner as Office Assistant in the fourth respondent School with effect from the date of his initial appointment, ie., on 01.09.2011 and to pay arrears.

2.Learned Counsel for the petitioner submitted that the petitioner was appointed as a Night Watchman on 01.09.2011 in the fourth respondent Higher Secondary School and



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he is working for more than eleven years, continuously, to the satisfaction of his superiors. He was appointed in the sanctioned post, however, by the Parents Teacher Association. He was doing all the works including Office Assistant and other clerical works in the School. Though he is doing his service without any blemish in the School, he was paid a meagre salary on consolidated pay. He gave several representations for regularizing his post to the fourth respondent, but that was not considered. Therefore, he has filed this writ petition.

3. Learned Additional Government Pleader for the official respondents submitted that the fourth respondent School is a non-minority School getting grant-in-aid from the Government and is governed by the provisions of the Tamil Nadu Recognized Private Schools Regulation Act, 1973; the Rules, 1974 framed thereunder; the Tamil Nadu Minority Schools Recognition and Grants-in-aid Rules, 1977; and various Government Orders issued then and there by the Government. The petitioner was appointed as Night Watchman by the Parents Teacher Association of the School and paid from the funds of the Parents Teacher Association of the School. It was only a stop gap arrangement until a regular Watchman is appointed after getting orders from the Government by observing the rules of regular appointment. Therefore, the petitioner cannot get any benefit on his appointment by the Parents Teacher Association, which is not a recruiting agency. The Parents Teacher Association is not a legally approved recruiting agency and the



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appointment was not made by observing the statutory provisions of communal reservation, etc., and hence, the services of the petitioner cannot be regularized.

4. This Court paid its anxious consideration to the rival submissions and also to the materials placed on record.

5. Admittedly, the petitioner was appointed only through the Parents Teacher Association as a Night Watchman. The Association is not entitled to appoint a person in the post of a Sweeper. If at all any appointment has been made and that too, on temporary basis, the Government cannot be compelled to regularize such appointment, inasmuch as the appointment was not in accordance with the recruitment rules in force. In this regard, a Division Bench of this Court in ***R. Ayyar v. Government of Tamil Nadu [W.A.(MD) No. 1394 of 2014, dated 10.08.2017]***, has held as follows:-

“If the Education Department had engaged the writ petitioner, then the question of considering his plea for absorption would arise. When the appellant was engaged only by Parent Teachers Association, it is not open to the appellant to lodge any claim against the Government. The request of the appellant for absorption on a regular basis is without any merit. It was rightly rejected. The learned Single Judge dismissed the writ petition by assigning correct reasons. There is no reason to take a different view. This writ appeal is accordingly dismissed. No costs.”



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6. In view of the above position, this Court is not inclined to entertain this writ petition and the same is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes
gk

23.12.2022

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B.PUGALENDHI, J.

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