



W.A(MD)No.127 of 2012

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2023

CORAM :

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE SUNDER MOHAN**

**W.A(MD)No.127 of 2012
and
M.P(MD)No.2 of 2012**

The Secretary,
Thiagarajan Higher Secondary School,
Vasanth Nagar,
Madurai-625 003.

.. Appellant/4th Respondent

Vs.

1.T.M.S.Santhi

2.The Tamil Nadu Director of School Education,
College Road,
Nungambakkam,
Chennai- 625 002.

3.The Chief Educational Officer,
Tallakulam,
Madurai-625 002.



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4.The District Educational Officer,
Tallakulam,
Madurai-625 002.

5.M.Kannan

.. Respondents 1,2,3&5/
Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent Act,
against the order, dated 05.07.2011, made in W.P(MD)No.6230 of 2011.

For Appellant : Mr.Issac Mohanlal,
Senior Counsel
for Mr.L.Praveen Kumar

For Respondents : Ms.Anbarasi Dhanaseelan
for R1

: Mr.D.Sasikumar
Additional Government Pleader
for R2 to R4

: Mr.Sam Euhine Jebakumar
for R5



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JUDGMENT

DR.G.JAYACHANDRAN, J.
and
SUNDER MOHAN, J.

T.M.S.Santhi, wife of Late T.M.Sankarlal, came to this Court filing W.P(MD)No.6230 of 2011 pray for issuance of writ of mandamus, directing the Secretary, Thiagarajan Higher Secondary School, Madurai, to consider her request for compassionate appointment in the post of Junior Assistant since her husband, who was working in his school died in harness. The matter was considered by this Court and a detailed order was passed after giving opportunity to all the persons concerned, wherein the fourth respondent school was directed to consider the case of the petitioner for appointment to the post of Junior Assistant or any other suitable post in vacancy forthwith (emphasis added). The educational authorities were also directed to implement the scheme of the Government Order and the instructions, in letter and spirit, taking note of the fact that the educational authorities, at many times, failed to give effect to the scheme pertaining to



compassionate appointment. Being aggrieved by the said order, the fourth respondent has preferred this Writ Appeal, which is now the subject matter for consideration by this Court.

2. Earlier, the writ petitioner Santhi filed W.P.(MD)No.816 of 2010 to consider her representations dated 13.04.2007 and 10.09.2008. This Court, by order dated 27.01.2010, has disposed the writ petition directing the appellant herein to consider her representation. The writ petitioner Santhi, while the direction of the Court was under consideration, moved the High Court, filing W.P(MD)No.2029 of 2010 seeking direction to forbear the appellant from filling up the post of Junior Assistant based on the paper publication dated 20.01.2010 appeared in “Madurai Mani” daily newspaper. The said writ petition was closed as infructuous when it was brought to the notice of this Court that the petitioner is offered the post of 'Record Clerk' in their school.

3. In such circumstances, it appears that the said Santhi, when offered the post of 'Record Clerk', had her own apprehension that it is a



conditional appointment for a period of one year and since there is already a post of Lab Assistant in the school in view of Clause 5 to the proceedings dated 09.11.2010 issued by the Directorate of School Education, her appointment will not be ratified by the Government. The self assumed apprehension has made the petitioner desisting from joining the post of Record Clerk offered by the appellant.

4. In this writ appeal, it is contended that the direction of the Single Judge, overlooking the above fact, has directed the appellant to appoint the writ petitioner in the post of Junior Assistant or any other suitable vacancy forthwith, inspite of the fact that she was offered the post of Record Clerk, which is appropriate to her qualification and kept vacant till date.

5. The learned counsel for the first respondent/writ petitioner would submit that the School management, in order to deprive the lawful right and the legitimate expectation accrued to her by virtue of the order passed by the High Court, has offered the post of Record Clerk, which will not be extended after one year and ratified by the Government in view of Clause 5.



For that reason, the writ petitioner was advised not to take up the post of 'Record Clerk'.

6. When the matter was taken up for consideration, this Court, directed the appellant to indicate vacancy position and also the appointments made during the pendency of the Appeal. Accordingly, the appellant earlier filed an affidavit stating that there is no vacancy. However, later, on proper legal advise, has come forward to offer the post of 'Record Clerk', which is still vacant and also had issued an appointment order dated 23.12.2022. The appointment has been accepted by the first respondent/writ petitioner and she has joined duty on 28.12.2022 as 'Record Clerk' in the Appellant School.

7. The copy of the appointment order and joining report produced by way of an additional typeset by the learned Senior Counsel appearing for the appellant.



8. The learned counsel appearing for the first respondent/writ petitioner still has apprehension in view of the fact that the approval granted by the educational authorities vide proceedings dated 09.11.2010 is only for a period of one year and subject to condition mentioned in Clause 4 and 5 of the said proceedings.

9. This Court is of the view that such apprehension is only an illusion. To disspell the said apprehension, we are inclined to make a specific direction to the Director of School Education.

10. Accordingly, the appellant School management is directed to forward the proposal, within seven days from today, to the District Educational Officer for ratifying the appointment of the first respondent Santhi as 'Record Clerk'. The Director of School Education is directed to take note of the pendency of the litigation before this Court for all these years, the effect of his proceedings dated 09.11.2010 shall be in force and the appointment of the first respondent/writ petitioner as 'Record Clerk' in the school managed by the appellant on 23.12.2022 be ratified without any



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further delay, preferably, within a period of 45 days from the date of receipt of a copy of this order.

11. With the above observation and direction, this writ appeal is disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

[G.J.,J.] & [S.M.,J.]

04.01.2023

Index : Yes / No

Internet : Yes / No

PJL

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