



W.P(MD)No.8931 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.8931 of 2020

and

W.M.P.(MD)No.8166 of 2020

M.Jenifer

Vs.

... Petitioner

- 1.The State of Tamil Nadu
Through its Secretary to Government,
School Education Department,
Fort St.George,
Chennai-9.
- 2.The Director of School Education,
DPI Campus,
Chennai-6.
- 3.The District Educational Officer,
Thoothukudi,
Thoothukudi District.
- 4.The Correspondent,
Victoria Girls Higher Secondary School,
Thoothukudi,
Thoothukudi District.

... 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 for the records relating to the order passed by the third respondent in his proceedings in Mu.Mu.No.8004/A1/2019, dated 31.01.2020 and quash the same and consequently, direction may be issued to the respondents 1 to 3 to approve the petitioner's appointment as Office Assistant in the fourth respondent school from 12.11.2018 and to grant monetary and service benefits from the date of her appointment within stipulated time.

For Petitioner : Mr.T.A.Ebenezer

For Respondents : Mr.N.Satheeskumar
Additional Government Pleader for R1 to R3

: No appearance for R4

ORDER

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

2. The writ petitioner was appointed as office assistant in the fifth respondent school with effect from 12.11.2018. It is a sanctioned post. Vacancy arose on account of promotion of the incumbent on 01.11.2018. When the management submitted applications for approving the said appointment, it was rejected by the impugned order dated 31.01.2020. The rejection order is put to challenge in this writ petition.



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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 set aside the impugned order and grant relief as prayed for.

4. The respondents have filed a detailed counter affidavit and the learned Additional Government Pleader took me through its contents. The learned Additional Government Pleader submitted that the impugned order does not call for interference. He pressed for dismissal of the writ petition.

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

6. The first ground of rejection is that the Management has not obtained declaration of minority status from the Government and that the issue is pending consideration in W.P.(MD)No.5863 of 2019. The said Writ Petition was allowed by me today and therefore, the first ground of rejection does not survive.



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7. The second ground of rejection is that there is a surplus. Therefore, the management could not have made an appointment on their own. The impugned order does not make any specific reference to G.O.Ms.No.238, School Education Department, dated 13.11.2018. Vide order dated 07.02.2023 made in W.P.(MD)No.13428 of 2020, I upheld the validity of G.O.(Ms) No. 238, dated 13.11.2018. I had also held that approval of appointments made prior to issuance of G.O.(Ms) No.238, dated 13.11.2018 will be considered on merits and in accordance with law without reference to the said Government Order.

8. Since the second and final ground of rejection is anchored on G.O. (Ms) No.238 dated 13.11.2018, the said ground does not survive because the petitioner was appointed prior to issuance of G.O. The impugned order is set aside. The official respondents are directed to approve the petitioner's appointment with effect from 12.11.2018. The official respondents shall also disburse the salary grant payable to the petitioner. This shall be done within a period of twelve weeks from the date of receipt of a copy of this order. The management is directed to submit a fresh proposal in this regard to facilitate the process of approval and disbursement.



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9. The Writ Petition is allowed. No costs. Consequently, connected

miscellaneous petition is closed.

28.03.2023

Index : Yes / No

Internet : Yes/ No

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G.R.SWAMINATHAN, J.

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