



W.P(MD)No.9433 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 03.11.2022

DELIVERED ON : 13.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.9433 of 2020

M.E.Elango

... Petitioner

Vs.

- 1.The Government of Tamilnadu,
Represented by its Principal Secretary,
Department of School Education,
Fort St.George, Chennai – 600 009.
- 2.The Director of School Education,
DPI Campus,
College Road,
Chennai – 600 006.
- 3.The Chief Educational officer,
Trichirappalli District,
Trichirappalli.
- 4.The District Educational Officer,
Trichirappalli District,
Trichirappalli District.
- 5.Sri Vivekanantha Vidhyavanam High School,
Represented by its Secretary,
Thirupparaithurai,
Trichirappalli District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 3rd respondent vide proceedings in O.Mu.No.1538/A4/2020 dated 18.06.2020, quash the same and direct the respondents 3 and 4 to approve the appointment of petitioner as Sweeper in the 5th respondent school with effect from 12.07.2018 with all attendant monetary benefits.

For Petitioner : Mr.M.Saravanan

For Respondents : Mr.R.Baskaran,
Additional Advocate General,
Assisted by
Mr.S.Shaji Bino
Special Government Pleader

ORDER

Heard the learned counsel on either side.

2.The petitioner was appointed as Sweeper in the fifth respondent school on 12.07.2018. The school management sent proposal for approving his appointment. Citing G.O.(Ms) No.238, School Education Department, dated 13.11.2018, the proposal was returned. Questioning the same, the present writ petition has been filed.



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3.Vide order dated 07.02.2023 in W.P.(MD)No.13428 of 2020, I upheld the validity of G.O.(Ms) No.238, dated 13.11.2018. However, the order returning the proposal pertaining to the appointment will have to be interfered with. The petitioner was appointed on 12.07.2018 ie., well before the issuance of G.O.(Ms) No.238, dated 13.11.2018. The said Government Order cannot operate retrospectively. The Hon'ble Division Bench vide order dated 06.12.2020 in W.A.(MD)No.1052 of 2020 had taken such a view. I, therefore, set aside the order passed by the fourth respondent. The school management is permitted to resubmit the proposal pertaining to the appointment of the petitioner to the third respondent. The respondents 3 and 4 are directed to consider the same without reference to G.O.(Ms) No. 238, dated 13.11.2018 and appropriate order on merits and in accordance with law will be passed within a period of six weeks after re-submission of the proposal.

4.This writ petition is partly allowed. No costs.

13.03.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
SKM



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G.R.SWAMINATHAN, J.

SKM

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