



W.P.(MD)No.9926 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2023

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THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

W.P(MD).No.9926 of 2019

G.Viju

... Petitioner's

Vs

- 1.The State of Tamil Nadu
Represented by its Secretary to Government,
School Education Department,
Secretariat, Chennai-9.
- 2.The Director of School Education,
College Road, Chennai.
- 3.The Chief Educational Officer,
Nagercoil,
Kanyakumari District.
- 4.The District Educational Officer,
Kuzhithurai,
Kanyakumari District.
- 5.The Correspondent,
Concordia Lutheran High School,
Kalparapottai, Kollemcode,
Kanyakumari District.

... Respondents



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Prayer:- Writ Petition is filed under Article 226 of Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records on the files of the 4th respondent pertaining to its order bearing Na.Ka.No. 1216/A4/2018 dated 28/01/2019 and quash the same and consequently direct the respondents to approve the appointment of the petitioner as Junior Assistant with effect from his date of appointment that is 01/07/2015 and to grant all the service and monetary benefits in consequent to the same.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.R.Baskaran
Additional Advocate General
Assisted by
Mr.N.Satheeshkumar
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2. The petitioner was appointed as Junior Assistant in the fifth respondent school on 01.07.2015. The management submitted proposal for approving the said appointment. By the impugned communication, the



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request was declined. Challenging the same, the present writ petition came to be filed.

3. The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of this petition and called upon this Court to set aside the impugned order and grant relief as prayed for.

4. The respondents have filed counter affidavit and the learned Additional Government Pleader took me through its contents.

5. I carefully considered the rival submission and went through the materials on record. Paragraph Nos.3 and 4 of the counter affidavit read as under:

"3.I submit that the Kalparapottai Concordia Lutheran High School is under the control of Lutheran Church of Thiruvananthapuram Diocese. This School is Minority Educational Institution. The School was Govt. Aided High School, Kalparapottai of Kuzhithurai Educational District in Kanyakumari District. The petitioner was appointed in



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Kalparapottai Concordia Lutheran High School in the retired vacancy of Tmt.D.Glady Mercy Bai, due to old age on 30.06.2015, who retired from service on the afternoon 30.06.2015. The proposals were received for the approval of the appointment of Thiru. C.Viju who was appointed by the correspondent as Junior Assistant from 01.07.2015.

4.I submit that Thiru G.Viju was appointed as Junior Assistant from 01.07.2015 by the correspondent in the Aided Concordia High School, Kalparapottai of Kuzhithurai Educational District in Kanyakumari District and also requested to approve his appointment by the Correspondent. As the Junior Assistant vacancy in the above mentioned school is surplus vacancy, the appointment of Thiru.Viju was rejected by A.Thi.Mu.No.6204/B3/2016 dated 16.04.2017 of this office mentioned that, it was not possible to approve. "

When the students strength was hardly 76 on 01.07.2015, the question of appointing a candidate for the post of Junior Assistant would not have arisen at all. The post had become surplus by then. The order impugned in this writ petition is sustained.



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6. Accordingly, this writ petition is dismissed. If the students strength improves and the management reappoints the petitioner, the dismissal of this writ petition will not come in the way. No costs.

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

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To

- 1.The Secretary to Government,
School Education Department,
Secretariat, Chennai-9.
- 2.The Director of School Education, College Road, Chennai.
- 3.The Chief Educational Officer, Nagercoil, Kanyakumari District.
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G.R.SWAMINATHAN, J.

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