



W.P(MD)No.15301 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.12.2023

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THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.15301 of 2021

and

W.M.P(MD)Nos.12194 & 12197 of 2021

R.Ravi

... Petitioner

Vs.

- 1.The Secretary to Government,
Education Department,
State of Tamil Nadu,
St. Fort George, Chennai-9.
- 2.The Director of School Education,
College Road,
Chennai-6.
- 3.The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.
- 4.The District Educational Officer,
Tirunelveli District,
Tirunelveli.
- 5.The Correspondent,
St. Xavier Higher Secondary School,
Palayamkottai,
Tirunelveli 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 Mandamus, directing the fifth respondent to resend the proposal by showing petitioner's appointment in the place of John Xavier instead of Albert Jeyabaskar and consequently direct the respondents 3 and 4 to approve the petitioner's appointment as Office Assistant at fifth respondent School and disburse all the petitioner's service and monetary benefits from 01.02.2022.

(Prayer amended vide Court order, dated 08.12.2023 in W.M.P(MD)No.19202 of 2023 in W.P(MD)No.15301 of 2021)

For Petitioner : Mr.S.Chellapandian
For R-1 to R-4 : Mr.V.Om Prakash
Government Advocate
For R-5 : No appearance

ORDER

The present writ petition has been filed by an Office Assistant, who was appointed in the fifth respondent School seeking to approve the petitioner's post from the date of his initial appointment.



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2. According to the learned Counsel appearing for the petitioner, the petitioner was appointed on 01.10.2019 as an Office Assistant which falls within the academic year 2019-2020. As per the staff fixation order for the relevant year only two Office Assistants post are sanctioned. As per G.O(Ms)No.238, School Education Department, dated 13.11.2018 if the School has got more than 1000 students, it is eligible to appoint two Office Assistants. When the petitioner was appointed, he was appointed as third Office Assistant, which is clearly surplus. Therefore, under an order, dated 05.01.2021, the authorities have rejected the proposal for approving the appointment of the writ petitioner.

3. Pending writ petition, one of the Office Assistants namely, John Xavier had attained superannuation on 31.05.2021. In view of new vacancy, the petitioner has filed an application seeking amendment of the prayer. In the amended prayer, the petitioner has given up the prayer for quashing the order, dated 05.01.2021 and instead the petitioner has prayed for an amendment to appoint him from the date on which the vacancy arose within the sanctioned strength. In view of the subsequent events, the order, dated 05.01.2021 loses all its relevance. It is also an admitted fact that on 31.05.2021 with the retirement



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of John Xavier, a vacancy has arisen within the sanctioned post for appointing an Office Assistant. Therefore, the authorities have to reconsider the said issue in the light of the subsequent events.

4. In view of the above said facts, this Court is inclined to pass the following order:

"(i) The fifth respondent School is directed to send a fresh proposal to the third respondent through the fourth respondent seeking to appoint the writ petitioner in the retirement vacancy of John Xavier, who superannuated on 31.05.2021 and to consider and grant approval to the writ petitioner from 01.06.2021.

(ii) On such receipt, the authorities are directed to consider the same in the light of the staff fixation order for the academic year 2022-2023 and pass orders within a period of eight (8) weeks from the date of receipt of a copy of this order."



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5. With the above said direction, this writ petition stands disposed of.

There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

08.12.2023

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

To

- 1.The Secretary to Government,
Education Department,
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- 2.The Director of School Education,
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Chennai-6.
- 3.The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.
- 4.The District Educational Officer,
Tirunelveli District,
Tirunelveli.
- 5.The Correspondent,
Sarah Tucker Higher Secondary School for Girls,
Palayamkottai,
Tirunelveli District.



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R.VIJAYAKUMAR, J.

BTR

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