



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Reserved on : 03.11.2022

Pronounced on : 08.02.2023

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15701 of 2022

and

W.M.P(MD)Nos.11302 & 11303 of 2022

M.Paul David Livingston,
Lab Assistant,
T.D.T.A.K.G.M.Higher Secondary School,
S.Kailsapuram,
Thoothukudi District.

.... Petitioner

Vs.

- 1.The State represented by
The Secretary,
Department of School Education,
Fort St.George,
Chennai – 600 009.
- 2.The Commissioner of School Education,
College Road,
Chennai – 600 006.
- 3.The Chief Educational Officer,
Thoothukudi,
Thoothukudi District.



4. The District Educational Officer,
Thoothukudi,
Thoothukudi District.

5. The Correspondent,
T.D.T.A.K.G.M. Higher Secondary School,
S.Kailsapuram,
Thoothukudi District.

... Respondents

Prayer : Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the fourth respondent District Educational Officer in O.Mu.No.2262/A1/2020 dated 14.06.2021, quash the same and further direct the fourth respondent DEO to approve forthwith the appointment of petitioner as Lab Assistant in the fifth respondent school with effect from 10.10.2018, with all attendant benefits including the arrears of salary and allowances.

For Petitioner : Mr.K.Ragatheesh Kumar
Senior Counsel

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

ORDER

Heard both sides.

2.The writ petitioner was appointed as Lab Assistant in the fifth respondent School on 31.06.2018. The appointment was necessitated in view



of the retirement of the incumbent. It was a sanctioned post. When an approval was sought, the fourth respondent returned the proposal on the ground that the fifth respondent School is coming under the corporate management and that one post of Lab Assistant had been rendered surplus in another institution coming under the same corporate management. The proceedings dated 14.06.2021 issued by the fourth respondent returning the proposal is put to challenge in this writ petition.

3.The prime argument of the learned Senior Counsel appearing for the writ petitioner is that each School should be treated as single and separate unit for the purpose of fixing the staff strength and appointment and that the rendering of post as surplus in another School run by the same corporate management should not come in the way of approving the petitioner's appointment.

4.Though the proposition canvassed by the learned Senior Counsel appearing for the petitioner cannot be accepted as such, the impugned order has to be set aside for the simple reason that the fourth respondent declined to approve the petitioner's appointment by citing the subsequent staff fixation. The reason set out in the impugned order is that as per the staff fixation done



for 2019-2020, one post of Lab Assistant was rendered surplus. The petitioner's appointment was on 10.10.2018. It was obviously during the previous academic year. Therefore, the reason set out in the impugned order is clearly bad in law. The impugned proceedings is set aside.

5.The respondents 3 and 4 are directed to approve the petitioner's appointment with effect from 10.10.2018 and also disburse all the financial and other consequential benefits payable to the petitioner. This shall be done as expeditiously as possible.

6.This writ petition is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

08.02.2023

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

To

1.The Secretary,
Department of School Education,
Fort St.George,
Chennai – 600 009.



2. The Commissioner of School Education,
College Road,
Chennai – 600 006.

3. The Chief Educational Officer,
Thoothukudi,
Thoothukudi District.

4. The District Educational Officer,
Thoothukudi,
Thoothukudi District.

5. The Correspondent,
T.D.T.A.K.G.M. Higher Secondary School,
S.Kailsapuram,
Thoothukudi District.



WEB COPY



G.R.SWAMINATHAN, J.

MGA

W.P(MD)No.15701 of 2022
and
W.M.P(MD)Nos.11302 & 11303 of 2022

08.02.2023