



W.P(MD)No.15880 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 03.11.2022

DELIVERED ON : 08.02.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15880 of 2022

and

W.M.P(MD)No.11456 of 2022

T.Russel Raj

... Petitioner

Vs..

1.The Chief Educational Officer,
Kanyakumari District.

2.The District Educational Officer,
Nagercoil, Kanyakumari District.

3.The Correspondent,
Ringletaube Higher Secondary School,
Mylaudy – 629 403, Kanyakumari District.

... Respondents

Prayer: Writ Petition 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 issued by the second respondent herein in Pa.Mu.No.1104/A4/2022 dated 30.06.2022 quash the same and further direct the respondents 1 and 2 herein to approve forthwith the appointment of petitioner as Office Assistant in the third respondent school from 9.10.2017 onwards with salary and other attendant benefits.



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For Petitioner : Mr.E.V.N.Siva
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 Office Assistant in the third respondent school which is a minority institution. The school management sent proposal for approving the petitioner's appointment to second respondent. The proposal was returned. Challenging the same, this writ petition has been filed.

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 09.10.2017 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 impugned order passed by the second respondent. The school



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management shall resubmit the proposal to the second respondent. The respondents 1 and 2 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. Consequently, connected miscellaneous petition is closed.

08.02.2023

Index : Yes / No

Internet : Yes / No

NCC : Yes / No

SKM

To

1.The Chief Educational Officer,
Kanyakumari District.

2.The District Educational Officer,
Nagercoil, Kanyakumari District.



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G.R.SWAMINATHAN, J.

SKM

**Pre-delivery Order made in
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08.02.2023