



W.P(MD)No.16269 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 03.11.2022

Pronounced on : 08.02.2023

CORAM

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

W.P(MD)No.16269 of 2021

C.Ponraju

... Petitioner

Vs.

1.The Chief Educational Officer,
Tenkasi, Tenkasi District.

2.The District Educational Officer,
Tenkasi, Tenkasi District.

3.Hindu Higher Secondary School,
Rep.by its Secretary,
Kizhapuliyur – 627 814,
Tenkasi District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to impugned order of the 2nd respondent in Mu.Mu.No. 221/A1/2021 dated 20.07.2021 and consequently, direct the respondents 1 and 2 herein to approve the appointment of the petitioner as Night Watchmen in the 3rd respondent school w.e.f. 03.10.2019 with all consequential monetary benefits.



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For Petitioner : Mr.T.Pon Ramkumar

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

ORDER

Heard both sides.

2.The petitioner was appointed as Night Watchman in the third respondent school. It is an aided non-minority school. One S.Ramachandran was working as Night Watchman and he went on voluntary retirement as early as on 31.03.2003. The management wrote to the department for filling up the vacancy. Permission was granted by the Chief Educational Officer, Tenkasi vide proceedings dated 24.07.2019. The said proceedings make a specific reference to G.O Ms.No.238, School Education Department dated 13.11.2018. The petitioner was appointed by the management only in terms off the letter of permission. Therefore, taking the stand that the issue of approval will be considered after surplus non-teaching posts are filled up is patently unreasonable.



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3.This issue is no longer res integra. The Hon'ble Division Bench in the decision reported in **(2013) 7 MLJ 641 (P.Ravichandran v. State of Tamil Nadu)** held that when a vacancy has been filled up after getting permission from the authorities, the authorities cannot decline to grant approval. In this view of the matter, the impugned order is set aside. The respondents 1 and 2 are directed to approve the petitioner's appointment. All the consequential monetary benefits shall be disbursed as expeditiously as possible.

4.This writ petition is allowed. No costs.

08.02.2023

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

To:

- 1.The Chief Educational Officer,
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Tenkasi, Tenkasi District.
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G.R.SWAMINATHAN, J.

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Pre-delivery Order made in

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