



W.P(MD)No.17555 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

RESERVED ON : 03.11.2022

DELIVERED ON : 08.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

**W.P(MD)No.17555 of 2022
and
W.M.P(MD)Nos.12781 & 12784 of 2022**

G.Lingaraja

... Petitioner

Vs.

1.The Director of School Education,
DPI Complex, College Road,
Nungambakkam, Chennai-600 006.

2.The Chief Education Officer,
Tirunelveli District, Tirunelveli.

3.The District Education Officer,
Valliyur Education District,
Valliyur, Tirunelveli District.

4.CCM Higher Secondary School,
Idayankudi, Tirunelveli District,
Represented by its Manager and
Correspondent.

... Respondents



W.P(MD)No.17555 of 2022

WEB COPY

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the order passed by the third respondent in Pro.L.Dis.No. 2489/A3/2021 dated 07.09.2021, quash the same as illegal and consequently direct the respondents 2 and 3 to grant approval for the appointment of the petitioner as Scavenger in the fourth respondent school with effect from 02.04.2018 with all attendant and monetary benefits including arrears of salary and allowances within specific time frame as fixed by this Court.

For Petitioner : Ms.W.Pamelin

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 Scavenger in the fourth respondent school on 02.04.2018. The school management sent proposal for approving his appointment. Citing G.O.(Ms) No.238, School Education Department, dated 13.11.2018, the proposal was returned. Questioning the same, the present writ petition has been filed.



W.P(MD)No.17555 of 2022

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 02.04.2018 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 order passed by the fourth respondent. The school management is permitted to resubmit the proposal pertaining to the appointment of the petitioner to the second respondent. The respondents 2 and 3 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 petitions are closed.

08.02.2023

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



WEB COPY



W.P(MD)No.17555 of 2022

G.R.SWAMINATHAN, J.

skm

To

- 1.The Director of School Education,
DPI Complex, College Road,
Nungambakkam, Chennai-600 006.
- 2.The Chief Education Officer, Tirunelveli District, Tirunelveli.
- 3.The District Education Officer, Valliyur Education District,
Valliyur, Tirunelveli District.

W.P(MD)No.17555 of 2022
and
W.M.P(MD)Nos.12781 & 12784 of 2022

08.02.2023