



W.P(MD)No.18985 of 2022

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.18985 of 2022

and

W.M.P.(MD)No.13860 of 2022

A.Antony Richard

... Petitioner

Vs.

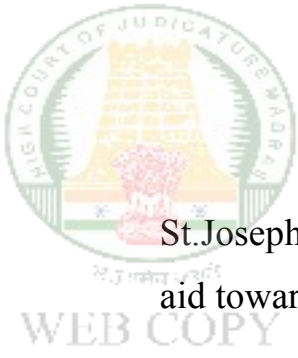
1.The Chief Educational Officer,
Madurai, Madurai District.

2.The District Educational Officer,
Madurai, Madurai District.

3.The Correspondent,
St.Joseph's Girls Flower Higher Secondary School,
Madurai – 625 009, Madurai 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 the impugned order issued by the 2nd respondent District Educational Officer in O.Mu. No.1244/A2/2021 dated --.06.2021, quash the same and further direct the 1st respondent Chief Educational Officer herein to approve forthwith the appointment of petitioner as Office Assistant w.e.f. 02.01.2018 to 08.09.2020 in the 3rd respondent school namely,



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St.Joseph's Girls Higher Secondary School, Madurai and disburse the grant-in-aid towards his salary with all attendant benefits from the said date.

For Petitioner : Ms.A.Amala

For Respondents : Mr.R.Baskaran,
Addl. Advocate General,
Assisted by Mr.N.Satheekumar,
Addl. Government Pleader for R1 & R2.

ORDER

Heard both sides.

2.The petitioner was appointed as Office Assistant in third respondent's school on 02.01.2018. The school is receiving aid from the State. It is a minority institution. Vacancy arose in the post of Office Assistant following the promotion of the incumbent Senthil Murugan as Lab Assistant. Proposal was submitted to the second respondent on 07.02.2018 seeking approval. The matter was pending. The management therefore filed WP(MD)No.26412 of 2019. The writ petition was disposed of on 10.02.2020 by directing the authority to consider the proposal. Since the petitioner's appointment was not approved, the petitioner could not get salary and he got relieved on 08.09.2020. The promotion of Senthil Murugan was approved in September 2020. But the



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petitioner's appointment was not approved by citing G.O Ms.No.238 School Education Department dated 13.11.2018. The District Educational Officer, Madurai took the view that as per the said G.O, there can only be two Office Assistants and therefore, the petitioner's appointment could not be approved.

3.Challenging the rejection order dated 29.06.2021 passed by the DEO, Madurai, the present writ petition came to be filed. The order impugned in this writ petition has to be set aside for the simple reason that the petitioner's appointment was on 02.01.2018. G.O Ms.No.238 School Education Department dated 13.11.2018 was issued only subsequently. Therefore, the petitioner's case could not have been negated by citing the said G.O. The order rejecting the petitioner's proposal suffers from clear non-application of mind. It is set aside. No other reason has been cited. The school management/R3 is directed to re-submit the proposal to the second respondent and the second respondent shall approve the appointment of the petitioner for the petition mentioned period as Office Assistant and release salary grant if there is no other impediment. The entire exercise shall be completed within a period of twelve weeks from the date of receipt of copy of this order.



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4.This writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

08.02.2023

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

To:

- 1.The Chief Educational Officer,
Madurai, Madurai District.
- 2.The District Educational Officer,
Madurai, Madurai District.



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G.R.SWAMINATHAN, J.

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