



WEB COPY



W.P(MD).No.24064 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 21.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.24064 of 2023

and

W.M.P(MD).Nos.20221, 20224 and 20222 of 2023

Immanuel Pon Jacob (Record Clerk)

....Petitioner

Vs

1.The Principal Secretary to the Government
School Education Department
Chennai 600 009

2.The Chief Educational Officer
Office of the Chief Education Officer
Thoothukudi District 628 002

3.The District Educational Officer
Thoothukudi District

4.The Correspondent
Victoria Girls Higher Secondary School
West Car Street
Thoothukudi District 628 002

...Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the impugned records in Mu.Mu.No.4516/A1/2021 dated 29.11.2021 on the file of the third respondent and to quash the same as illegal and consequently grant all service and monetary benefits with arrears of salary within the time frame as fixed by



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this Court.

For Petitioner : M/s.Veera Rahul
For R1 to R3 : Mr.V.Om Prakash
Government Advocate

ORDER

The present writ petition has been filed by a Record Clerk appointed in the fourth respondent School challenging the order of rejection to approve his appointment.

2.According to the petitioner, he was appointed as a Record Clerk on 10.06.2021 in the fourth respondent School in the sanctioned vacancy. As per Staff Fixation order for the year 2021-2022, the School has been permitted to fill up one post of Record Clerk. The School has forwarded a proposal to the third respondent herein for approval on 04.10.2021. Under the impugned order, the third respondent has rejected the said proposal relying upon G.O(Ms).No.238, School Education (Pa.Ka.6(1) Department, dated 13.11.2018. Challenging the same, the present writ petition has been filed.

3.According to the learned counsel appearing for the writ petitioner, the petitioner having been appointed in a sanctioned vacancy as per Staff Fixation Approval ought not to have been rejected relying upon G.O(Ms).No.238, School Education (Pa.Ka.6(1) Department, dated 13.11.2018.



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4.Per contra, the learned Government Advocate appearing for the respondents had contended that G.O(Ms).No.238, School Education (Pa.Ka.6(1) Department, dated 13.11.2018 is applicable to the fourth respondent School and therefore, the appointment has to be considered only in the light of the said Government Order.

5.I have considered the submissions made on either side and perused the material records.

6.The order impugned in the writ petition has been passed primarily relying upon G.O(Ms).No.238, School Education (Pa.Ka.6(1) Department, dated 13.11.2018. The said Government Order has been stayed in WMP(MD).No.9975 of 2019 in WP(MD).No.13404 of 2019 by a learned Single Judge of this Court. The said order has been followed by the Hon'ble Division Bench in C.M.P(MD).Nos.6675 and 6677 of 2023 in WA(MD).No.816 of 2023 dated 14.06.2023. Therefore, as on today, the said Government Order is not in force.

7.In view of the above said facts, the order impugned in the writ petition is set aside and the matter is remitted back to the third respondent for fresh consideration. The third respondent shall pass orders on merits and in accordance with law within a period of 12 weeks from the date of receipt of a copy of this order.



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8. With the above said observations, the writ petition is allowed to the extent as stated above. No costs. Consequently, connected miscellaneous petitions are closed.

21.11.2023.

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
msa



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