



WEB COPY

W.P.No.9551 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.04.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.9551 of 2021

Salva Munibhaskar

... Petitioner

Vs.

1. The Chief Educational Officer,
Chennai District,
Egmore, Chennai – 600 008.

2. The District Educational Officer,
South Chennai Education District,
Egmore, Chennai – 600 008.

3. The Correspondent,
Kesari Higher Secondary School,
8, Sir Theagaraya Road,
T.Nagar, Chennai – 600 017.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to pass orders for granting of approval of appointment of petitioner in the sanctioned post of Watchman in the 3rd respondent School from the date of appointment on 07.08.2019, based on the proposal submitted by the 3rd respondent School dated 30.8.2019 and 24.08.2020 with all consequential and other attendant benefits, within a time frame to be fixed by this Honourable Court.

For Petitioner : Mr.S.Nedunchezhiyan

For Respondents : Mr.K.H.Ravikumar,



Government Advocate
ORDER

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The petitioner herein was appointed as Watchman by the 3rd respondent School by an order dated 07.08.2019 in a vacancy that arose consequent upon the promotion of one Thiru.L.Vijaykumar from the said post of Watchman to the post of Office Assistant on 03.06.2019. On promoting the said Thiru.L.Vijaykumar to the post of Office Assistant from the post of Watchman, proposals were submitted by the 3rd respondent to the 1st respondent. The 1st respondent granted approval for such promotion through proceedings dated 03.11.2020 by imposing certain conditions. One such condition is that the resultant vacancy of Watchman is to be filled up from the surplus pool and secondly that the 3rd respondent should obtain prior permission for filling up the said post. But the 3rd respondent, even before the consideration of the proposals submitted for approval of promotion effect to the post of Assistant filled up resultant vacancy of Watchman and thereafter submitted proposal to the 1st respondent for approval. The said proposal submitted by the 3rd respondent through proceedings bearing மு.மு.எண்.8411/அ4/2019 dated 26.12.2019 was returned by the 1st respondent on the ground that the resultant vacancy of Watchman is required to be filled up from the surplus pool and also on the ground that in case if the



3rd respondent intends to fill up the the said post, the 2nd respondent has to forward such request to the 1st respondent and on obtaining permission from the 1st respondent, the said vacancy can be filled up. However, for the reasons best known, the 3rd respondent has not chosen to question the said proceedings through which the proposal of the 3rd respondent was returned but the petitioner herein who was appointed in the said post of Watchman approached this Court by seeking a Writ of Mandamus to direct the respondents to pass orders granting approval for appointment of the petitioner to the post of Watchman. If at all anyone is aggrieved by the proceedings dated 27.11.2020 through which the proposal submitted by the 3rd respondent was returned, it is for the 3rd respondent to agitate against the same. But for the reasons best known, the 3rd respondent has not chosen to take any steps against the said proceedings dated 27.11.2020. Once the said proceedings dated 27.11.2020 is allowed to become final, the question of issuing a Writ of Mandamus, as such sought for in this Writ Petition does not arise.

2. The resisting claim made by the petitioner in this Writ Petition, the respondent no.2 has filed counter-affidavit raising several contentions including the orders issued by the Government in G.O (Ms) No.238, School Education Department dated 13.11.2018.



3. Be that as it may, it is brought to the notice of this Court by learned counsel for the petitioner that the proposal that was returned through proceedings dated 27.11.2020 was resubmitted by the 3rd respondent through proceedings dated 14.10.2023, i.e., after filing of the present Writ Petition and the said proposal is still pending for consideration before the 1st respondent. If that be the case, it is open for the 3rd respondent to pursue the said proposal and the respondent no.1 is under legal obligation to consider the same in accordance with law.

4. In the light of the above, this Court is not inclined to go into the merits of the case and is of the considered view that it would be appropriate to direct the 1st respondent to consider the said re-submitted proposal by duly affording an opportunity to the 3rd respondent herein. Accordingly, the Writ Petition is disposed of directing the 1st respondent to consider the proposal submitted by the 3rd respondent for approval of the appointment of the petitioner in the post of Watchman and pass appropriate orders in accordance with law as expeditiously as possible at any rate within a period of six weeks from the date of receipt of a copy of this order. The 1st respondent is further directed to afford an opportunity to the 3rd respondent before taking a decision on the said proposal.



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5. Accordingly, the Writ Petition is disposed of. No costs. Connected Miscellaneous Petitions, if any shall stand closed.

25.04.2024

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

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MUMMINENI SUDHEER KUMAR, J.

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