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W.P.No.22177 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2024

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THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.22177 of 2023

and

W.M.P.Nos.21567 & 21569 of 2023

E.Sujatha

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Petitioner

Vs

1. The Director of School Education,
DPI Buildings, College Road,
Chennai – 6.

2. The Chief Educational Officer,
Thirupattur.

3. The District Educational Officer,
Thirupattur.

4. Hindu Higher Secondary School,
Karumbur Village & Post,
Thuthipet – 635 811

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Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus calling for the entire records connected with the impugned order passed by the third respondent, dated Nil.11.2022 signed on 22.11.2022 in Na.Ka.No.2682/A1/2022 and the impugned order passed by the second



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respondent in Na.Ka.No.553/A2/2021, dated 30.06.2023 and quash the same and consequently direct the second respondent to approve the appointment of the petitioner as Record Clerk, in the fourth respondent School, with effect from 25.10.2019, with all consequential and monetary benefits.

For Petitioner : Mr.S.N.Ravichandran
For R1 to R3 : Dr.T.Seenivasan
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the order dated 22.11.2023 in Na.Ka.No.2682/A1/2022 passed by the third respondent and the impugned order dated 30.06.2023 in Na.Ka.No.553/A2/2021 passed by the second respondent, thereby rejected the approval of the appointment of the petitioner as Record Clerk in the fourth respondent School with effect from 25.10.2019.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner was appointed in a vacancy which arose in the post of Record Clerk in the fourth respondent School, due to



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promotion of one A.R.Rajkumar, Record Clerk as BT Assistant on 03.10.2013. The second respondent already sought for permission to fill up the post of Record Clerk and the same was granted by the second respondent. Thereafter, the fourth respondent passed a Resolution dated 24.10.2019, selected and appointed the petitioner as Record Clerk. Accordingly, the petitioner joined on 25.10.2019. His appointment was duly intimated to the third respondent.

4. The fourth respondent School had sent a proposal seeking approval of his appointment as Record Clerk with effect from 25.10.2019. However, the third respondent, by its proceedings dated 09.11.2020, rejected the approval on the ground that while inspecting the School on 03.11.2020, there was a short fall of student strength and as such, the post of Record Clerk is found surplus, as per G.O.Ms.No.238, dated 13.11.2018. Once again, the fourth respondent re-submitted the proposal on 01.02.2021 with a clarification that the petitioner was appointed in the sanctioned post as per the students strength for the Academic Year 2018-19. In fact, the second respondent had already permitted the fourth respondent School to fill up the vacancy in the post of Record Clerk.



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5. Therefore, the petitioner filed a writ petition before this Court in W.P.No.3002 of 2021. This Court, by an order dated 22.06.2022, directed the School to re-submit the proposal with an explanation and fulfill the defects. Accordingly, a fresh proposal was re-submitted on 01.08.2022 to the second respondent. Once again, by the impugned order, the proposal for approval was rejected by the second respondent on the very same ground. Hence, the writ petition.

6. This Court repeatedly held that the approval of appointment cannot be rejected on the sole ground that there is a subsequent short fall in the students strength alone and in that event, the only recourse open to the Educational Authorities is to approve the appointment and deploy the said post to the Schools which is in need of the said staff. In fact, this Court, while quashing the rejection order, issued the following directions :-

“11. Considering the above said submissions made by the parties and recording the undertakings of the learned counsel appearing for the petitioner as well as the 5th respondent School, this Court is inclined to pass orders as follows:-



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(i) The 5th respondent-School is directed to resubmit the proposal to the 4th respondent along with their explanation, as the defects pointed out in Paragraph No.15 of the counter affidavit filed by the 4th respondent and also any other defects pointed out in the earlier rejection order, within a period of two weeks from the date of receipt of a copy of this order.

(ii) If any such documents required by the 5th respondent-School from the petitioner, the petitioner is directed to furnish the same before the 5th respondent-School for complying the aforesaid defects and for resubmitting the proposal for his appointment.

(iii) If any such proposal has been received by the 4th respondent within the aforesaid period, the same shall be considered and pass appropriate orders, in accordance with law, as early as possible, within a period of twelve weeks thereafter.

(iv) It is made clear that the 5th respondent has to comply all the rules and regulations for granting approval of the appointment of the petitioner.

12. With the above directions and observations, the writ petition stands disposed of. Consequently, the connected miscellaneous petition is closed. No costs."

7. After duly complied with the directions, the fourth respondent School had sent the proposal for approval of appointment of the petitioner as Record Clerk with effect from 25.10.2019 to the second respondent. Unfortunately, once again, the second respondent rejected



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the proposal on the very same ground. Therefore, this Court finds infirmity in the order passed by the second respondent and it is liable to be quashed.

8. Therefore, the impugned order dated 22.11.2022 in Na.Ka.No.2682/A1/2022 passed by the second respondent is hereby quashed. Accordingly, the Writ Petition stands allowed. The second respondent is directed to approve the appointment of the petitioner as Record Clerk with effect from 25.10.2019 with all consequential and monetary benefit. Consequently, connected miscellaneous petitions are closed. No costs.

31.01.2024
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Internet : Yes
Index : Yes/No
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