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W.P.(MD).No.3098 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.07.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.3098 of 2021

and

W.M.P.(MD)Nos.2476, 2478 and 2479 of 2021

Sri K.G.S.Higher Secondary School,
Aduthurai-612 101,
Thanjavur District,
Rep. by its Secretary,
S.Kumarasamy

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Principal Secretary
to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai-600 009.
- 2.The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.
- 3.The Chief Educational Officer,
Thanjavur District,
Thanjavur.
- 4.The District Educational Officer,
Kumbakonam Educational District,
Thanjavur District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned Government Order in G.O.Ms.No.238 School Education [Pa.Ka6(1)] Department dated 13.11.2018 and the subsequent impugned proceedings issued by the 4th respondent in Na.Ka.No.3342/A4/2021 dated 23.01.2021 and to quash the same and consequently directing the respondents to grant approval of appointment of Mr.R.Jayakumar in the sanctioned post of Record Clerk in the petitioner School from the date of appointment on 18.11.2020, with all consequential and other attendant benefits including payment of salary and other service benefits.

For Petitioner : Mr.Sylendra Babu,
for F.Deepak

For Respondents : Mr.M.Sarangan,
Additional Government Pleader

ORDER

This writ petition has been filed to quash the impugned Government Order in G.O.Ms.No.238 School Education [Pa.Ka6(1)] Department dated 13.11.2018 and the subsequent impugned proceedings issued by the 4th respondent in Na.Ka.No.3342/A4/2021 dated 23.01.2021 and consequently directing the respondents to grant approval of appointment of Mr.R.Jayakumar in the sanctioned post of Record Clerk in the petitioner



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School from the date of appointment on 18.11.2020, with all consequential and other attendant benefits including payment of salary and other service benefits.

2. The brief facts which are necessary for the disposal of this Writ Petition is as follows:-

The petitioner School is a Government Aided Institution. A vacancy in the post of Record Clerk arose due to the retirement of the erstwhile incumbent one Tmt.Rajeswari on 31.07.2019 in the petitioner School. Further, for the purpose of filling up the vacancy to the post of Record Clerk, after properly conducting the selection process by calling the list of eligible candidates from employment exchange and notifying the vacancies through advertisement in various dailies, the petitioner selected one R.Jayakumar and appointed him as Record Clerk as per the resolution passed by the School Committee dated 20.07.2020 and issued him with an appointment order on 18.11.2020 and the said Jayakumar joined in service in the post of Record Clerk. The petitioner School forwarded a proposal to the 4th respondent seeking approval of appointment of Mr.R.Jayakumar in the post of Record Clerk from the date of appointment, that is, from 18.11.2020. However, the said proposal was returned by the 4th respondent, the District



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Educational Officer, Kumbakonam, on the basis of G.O.Ms.No.238, School Education Department, dated 13.11.2018, stating that the post of Record Clerk has not been included in the staff fixation order of the petitioner School issued by the 3rd respondent for period of 2018-2019, 2019-2020. Challenging the said G.O.Ms.No.238, School Education Department, dated 13.11.2018 and the subsequent impugned proceeding of the 4th respondent dated 23.01.2021, this writ petition came to be filed.

3. When the matter was taken up for hearing, the learned Additional Government Pleader, Mr.M.Sarangan, placed before me the order passed by this Court in W.P.(MD)No.13428 of 2020 dated 07.02.2023, in which, this Court has upheld the validity of the aforesaid G.O.Ms.No.238, School Education Department, dated 13.11.2018.

4. For which, the learned counsel appearing for the petitioner submitted that, a writ appeal has been preferred as against the order passed by this Court in the said writ petition relied upon by the learned Additional Government Pleader and an order of stay has been granted in Division Bench of this Court in C.M.P.(MD)Nos.6675 and 6679 of 2023 in W.A.



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(MD)No.816 of 2023. In view of the same, he pressed for allowing the writ petition.

5. It is also brought to my notice that a coordinate bench of this Court in a batch of writ petition in W.P.(MD)No.10525 of 2021 and batch, has passed favourable orders to the petitioners therein by an order dated 06.12.2023 by allowing the claim of the petitioners subject to the outcome of the W.A.(MD)No.816 of 2023 pending before the Hon'ble Division Bench of this Court and the relevant portion of the same is extracted as follows:

“10. Further in CMP(MD) No.6675 & 6677 of 2023 in WA.(MD)No. 816 of 2023 dated 14.06.2023, filed before the Hon'ble Division Bench of Madurai Bench of this High Court, has stayed the operations G.O.Ms. 238, School Education (Pa.Ka.6(1) Department, dated 13.11.2018. Unless the Writ Appeal is disposed, no order either by upholding or by rejecting the impugned government order can be passed. Hence I feel these writ petitions can be disposed subject to the out come of the Writ Appeals. It goes without saying that the respondents would give approval if the Writ Appeal is dismissed. As the operation of the G.O.Ms. 238, School Education (Pa.Ka.6(1) Department, dated 13.11.2018 has been stayed, the petitioners do not have any difficulty to enjoy the status quo in WMP.Nos. 18664, 16749, 16742, 16743, 23797, 24575 of 2020 and 8038, 9457, 9462, 12056, 14048, 14164, 14558, 14621, 15466, 15470, 15881, 16552, 17636, 17645, 18148, 18842, 20075, 20083, 20065, 20068, 20088, 20244, 20476, 20480, 22118 of 2021, till the disposal of the writ appeal in WA.(MD)No.816 of 2023.”



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6. Fully fortified by the observation made by this Court in the aforesaid writ petition, this case is squarely covered by the same. I hereby observe that the writ petitioner School would be entitled to get their proposal, seeking sanction of the post of Record Clerk, in which, one R.Jayakumar has been appointed, approved if W.A.(MD)No.816 of 2023 gets dismissed. If the same is allowed, automatically the petitioner's claim could be negated.

7. Accordingly, this writ petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

31.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

1.The State of Tamil Nadu,
Rep. by its Principal Secretary
to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai-600 009.



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- 2.The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.
- 3.The Chief Educational Officer,
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Thanjavur.
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L.VICTORIA GOWRI, J.

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