



W.P.(MD).No.5961 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.03.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.5961 of 2024

and

W.M.P.(MD)No.5621 of 2024

The Correspondent,
Yettacode Higher Secondary School,
Yettacode, Veeyannoor (Post),
Thiruvattar-629 177,
Kanyakumari District.

...Petitioner

Vs.

1.The Director of School Education,
College Road, Chennai-600 006.

2. The Chief Educational Officer,
Kanyakumari at Nagercoil,
Kanyakumari District.

3.The District Educational Officer
(Secondary Education),
Marthandam, Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 3rd respondent District Educational Officer herein to approve forthwith the appointment of



W.P.(MD).No.5961 of 2024

S.Rajesh as Watchman in petitioner School w.e.f., the date of his appointment viz., 03.04.2018, with all attendant benefits including the arrears of salary and allowance.

For Petitioner : Mr.K.Ragatheesh Kumar

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

ORDER

The present writ petition has been filed seeking direction to the 3rd respondent District Educational Officer to approve forthwith the appointment of S.Rajesh as Watchman in petitioner School w.e.f., the date of his appointment viz., 03.04.2018, with all attendant benefits including the arrears of salary and allowance.

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

The petitioner's School is a Minority Institution. On 28.02.2018 due to the retirement of the then incumbent Thiru.M.Mony on 28.02.2013 a vacancy had arisen in the post of Watchman. In that vacancy, the petitioner School



W.P.(MD).No.5961 of 2024

appointed one S.Rajesh as Watchman with effect from 03.04.2018. Pursuant to the same, a proposal to approve the appointment of S.Rajesh as Watchman came to be submitted by the petitioner School to the 3rd respondent on 03.04.2018 and disburse grant-in-aid towards his salary. It is pertinent to mention here that the appointment came to be made by the petitioner School in an already existing sanctioned vacancy. Despite repeated requests made by the petitioner's School, the proposals seeking approval of the aforesaid appointment was not considered. In view of the same, this writ petition came to be filed.

3. The learned Counsel appearing for the petitioner School relying upon the order passed by this Court in W.P.(MD)No.25449 of 2019 dated 08.02.2023, submitted that, this Court in the aforesaid case has upheld the validity of G.O.Ms.No.238, dated 13.11.2018. Hence, the approval of the appointment made prior to issuance of G.O.Ms.No.238, dated 13.11.2018 can be considered and appropriate orders on merits in accordance with law can be passed with reference to the said order.



W.P.(MD).No.5961 of 2024

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4. Per contra, the learned Additional Government Pleader submitted that Writ Appeal has been preferred against the same in W.A.(MD)No.816 of 2023 before the Hon'ble Division Bench of this Court and this Court, vide order, dated 14.06.2023 was pleased to stay the order of the learned Single Judge in which the validity of G.O.Ms.No.238, dated 13.11.2018 has been upheld. In view of the pending Writ Appeal, the respondents would not be in a position to consider the proposal of the petitioner School and pass appropriate orders. Hence, he pressed for dismissal of the writ petition.

5. Heard, the learned Counsels on either sides. Carefully perused the materials available on record.

6. The mandates of G.O.Ms.No.238, dated 13.11.2018 would never come across the issue in hand for the reason that the appointment has been made by the petitioner School on 03.04.2018, that is, well before the issuance of the aforesaid G.O. Though a policy decision has been taken by the Government in G.O.Ms.No.238, School Education Department, dated 13.11.2018 with respect to non teaching post, by adopting new norms in fixing



W.P.(MD).No.5961 of 2024

the ratio of students and non teaching staff, the same would have only prospective effect. In view of the same, it would not affect the appointments made prior to the date of G.O.Ms.No.238.

7. Hence, this Court is of the considered view that, the respondents should forthwith approve the appointment of S.Rajesh as Watchman in petitioner School w.e.f., the date of his appointment viz., 03.04.2018, with all attendant benefits including the arrears of salary and allowance, if otherwise qualified.

8. Accordingly, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

19.03.2024

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



W.P.(MD).No.5961 of 2024

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W.P.(MD).No.5961 of 2024

L.VICTORIA GOWRI, J.

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W.P.(MD).No.5961 of 2024

19.03.2024