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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.06.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.12004 of 2024
and
W.M.P.(MD).No.10687 of 2024

The Secretary,
S.N.Ramasamy Raja Higher Secondary School,
Sankarankovil – 627 756,
Tirunelveli District. ... Petitioner

Vs.

1.The Chief Educational Officer,
Tenkasi District,
Tenkasi.

2.The District Educational Officer,
Tenkasi District,
Tenkasi.

3.G.Balasubramani,
Night Watchman,
S.N.Ramsamy Raja Higher Secondary School,
Sankarankovil – 627 756,
Tenkasi District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the

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records relating to the impugned order passed by the second respondent in Na.Ka.No.5647/A4/2023 dated 02.01.2024 and quash the same as illegal and consequently direct the first and second respondents to approve the third respondent's appointment in the post of Night Watchman with effect from 01.07.2019 and disburse all applicable monetary and other benefits within the period that may be stipulated by this Court.

For Petitioner : Mr.M.Jerin Mathew

For R-1 and R-2 : Mr.T.Amjad Khan
Government Advocate

O R D E R

Heard Mr.M.Jerin Mathew, learned counsel appearing for the petitioner and Mr.T.Amjad Khan, learned Government Advocate appearing for the respondents.

2. By consent of both the parties, this Writ Petition is taken up for final disposal at the admission stage itself.

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3. This Writ Petition has been filed to quash the order dated 02.01.2024 and consequently direct the first and second respondents to approve the third respondent's appointment in the post of Night Watchman with effect from 01.07.2019 and disburse all applicable monetary and other benefits.

4. The petitioner who had appointed the third respondent as Night Watchman in the School has sent a proposal for approval of appointment. However, the second respondent has returned the same by assigning the reason of surplus post. The petitioner submitted that as per Right to Information Act, there is no surplus post available in the District in the post of Watchman.

5. In such case, the second respondent ought to have considered the appointment of the third respondent as Night Watchman in the petitioner School and pass appropriate orders for granting sanction. The order dated 02.01.2024 is not a rejection order, but it is only an information stating that after getting clarification with regard to the Government Order in G.O.Ms.No.238 School Education Department

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dated 13.11.2018, the request for approval will be granted. However, in the instant case, if the petitioner school is satisfied that there is no post available in the cadre of Watchman in the entire District, then the proposal for approval of appointment cannot be withheld for the reason of surplus.

6. Taking into consideration all the above aspects and the observations, this Writ Petition is **disposed of** with a direction to the respondents to pass orders on the proposal sent by the petitioner School, instead of holding it on some pretext or other. The said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

10.06.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

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To:

1.The Chief Educational Officer,
Tenkasi District,
Tenkasi.

2.The District Educational Officer,
Tenkasi District,
Tenkasi.

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R.N.MANJULA, J.

Nsr

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