



W.P.(MD).No.14391 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.14391 of 2022

and

W.M.P.(MD)Nos.10285 of 2022

I.Thesinguraja

... Petitioner

Vs.

1.The Secretary to Government,
Education Department,
State of Tamil Nadu,
Secretariat,
St.Fort George,
Chennai – 9.

2.The Commissioner of School Education,
College Road,
Chennai – 6.

3.The District Educational Officer,
Tiruchendur,
Thoothukudi District.

4.The Correspondent,
Bishop Azariah Memorial Higher Secondary School,
Vellalanvilai,
Thoothukudi District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the third respondent in his proceedings in O.Mu.No.3061/A1/2021, dated 17.12.2021 and quash the same as illegal and consequent direction may be issued to the respondents to pay the monetary and service benefits for the period from 06.08.2002 to 31.05.2007 as Watchman or Office Assistant and thereafter from 01.06.2007 to 03.01.2008 as Office Assistant in the fourth respondent School within stipulated time.

For Petitioner : Mr.T.A.Ebenezer

For R-1 to R-3 : Mr.M.Siddharthan
Additional Government Pleader

ORDER

Heard Mr.T.A.Ebenezer, learned counsel for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader for the respondents 1 to 3.

2. This Writ Petition has been filed seeking to quash the order of the third respondent dated 17.12.2021 and consequently direct the



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respondents to pay the monetary and service benefits for the period from 06.08.2002 to 31.05.2007 as Watchman or Office Assistant and thereafter from 01.06.2007 to 03.01.2008 as Office Assistant in the fourth respondent School.

3. The petitioner has been appointed as Watchman in the fourth respondent School on 06.08.2002. When the proposal was sent for the approval to the Government that was rejected by the third respondent vide order dated 17.12.2021

4. Even according to the petitioner, he has been appointed as a Watchman on 05.08.2002 in the sanctioned post in the vacancy that arose due to the transfer of previous approved Watchman, namely, A.Gabriel. The communications and the references in the impugned order have been mentioned only the names of the petitioner and Manova. Now, the learned counsel for the petitioner submitted that the petitioner has been appointed in the place of Gabriel and not in the place of Manova.



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5. The learned counsel for the petitioner submitted that the said Manova has been appointed after the erstwhile Watchman Gabriel has been promoted and transferred to the post of Office Assistant and hence there was a vacancy to the post of Watchman. His further contention is that even after the retirement of Gabriel, Manova has also been transferred and promoted as Office Assistant and hence, the Watchman post fell vacant and only in that the petitioner was appointed. As the approval for Manova as Office Assistant was not given, he continued to remain as a Watchman. Hence, the petitioner has been re-posted as Office Assistant instead of Watchman.

6. However, two persons namely Manova and the petitioner were occupying the post of Office Assistant and Watchman from the time when the posts were sanctioned to the School.

7. Mr.M.Siddharthan, learned Additional Government Pleader for the official respondents submitted that even without making any appointment in the place of Manova, the petitioner makes a false claim.



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8. Once Manova has been promoted and posted as Office Assistant, the post of Watchman fell vacant. However, Manova has come back to the post of Watchman, as no approval has been granted to him for the post of Office Assistant. If salary for Manova is granted for his post held as Watchman, then it cannot be claimed that there was vacancy in the place of Manova. Once Manova has assumed and played the role of Office Assistant, there was a vacancy in the post of Watchman until he was re-posted.

9. But it is for the appropriate authorities concerned to inspect the records of the petitioner School and find out whether the post of Watchman and the Office Assistant were available as vacant during the relevant point and in which the petitioner has been appointed or transferred in the capacity of Office Assistant and Watchman. If the petitioner is not satisfied with the remarks submitted by the respondents, it ought to take the help of the expert or enquiry officer to enquire with the affairs of the School during that relevant point of time and direct the enquiry officer to submit a report in this connection in order to proceed



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further, on the proposal submitted by the petitioner and his opponents,
for regularizing their services.

10. In view of the above observations, this Writ Petition is **disposed of** with a direction to the respondents to appoint an enquiry officer in order to enquire about the affairs of the School during the relevant point of time regarding the appointments and submit a report within a period of four weeks from the date of receipt of a copy of this order. On receipt of such report, the respondents are directed to pass orders within a period of two weeks therefrom. No costs. Consequently, connected miscellaneous petition is closed.

20.06.2024

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



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R.N.MANJULA, J.

Nsr

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