



W.A(MD) No.1737 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 14.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

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and

C.M.P.(MD)No.7358 of 2021

- 1.The State of Tamil Nadu,
Rep. by its Principal Secretary,
Department of School Education,
Fort St.George, Chennai-600 009.
 - 2.The Director of School Education,
College Road,
Chennai-600 006.
 - 3.The Chief Educational Officer,
Thoothukudi District.
 - 4.The District Educational Officer,
Thiruchendur,
Thoothukudi District.
- ... Appellants / Respondents 1 to 4

Vs

- 1.E.Jeyasri V.Rayee
Record Clerk,
St.Thomas Higher Secondary School,
Virapandianpatnam,
Thoothukudi District-628 219. ... 1st Respondent / writ petitioner



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2.The Correspondent,
St.Thomas Higher Secondary School,
Virapandianpatnam,
Thoothukudi District-628 219. ... 2nd Respondent / 5th Respondent

PRAYER: Writ Appeal filed under Clause 15 of Latters Patent, praying this Court to set aside the Order dated 30.06.2021 passed in W.P. (MD)No.10828 of 2021.

For Appellant : Mr.V.Om.Prakash
Government Advocate
For Respondents : Mr.Ajith Geethan
for R1
: Mr.S.Savari Muthu
for R2

ORDER

(Order of the Court was made by **G.R.SWAMINATHAN, J.**)

Heard both sides.

2. One Jockin Peeris was employed as record clerk in St.Thomas Higher Secondary School, Virapandianpatnam, Tuticorin District. He was promoted as Lab Assistant in the retirement vacancy on 01.03.2018. As a result of promotion of Jockin Peeris as lab assistant, the post of record clerk in the school became vacant. In the said vacancy, the writ



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petitioner E.Jeyasri V.Rayee was appointed on 22.03.2018. The proposal for approving the appointment was submitted to the District Educational Officer, Tiruchendur. Vide order dated 22.04.2021, the proposal was returned. Challenging the same, the petitioner filed W.P.(MD)No.10828 of 2021. In the writ petition, the petitioner also challenged the condition set out in the proceedings dated 10.03.2021 issued by the Chief Educational Officer, Tuticorin approving the appointment of Jockin Peeris as lab assistant. The offending condition was that the school management was not to fill up the resulting vacancy in the post of record clerk, but has to fill up only from out of the surplus record clerks in the other schools working under the same corporate management. The learned Judge took the view that in as much as the appointment of the writ petitioner was made on 22.03.2018 which was well before the issuance of G.O.Ms.No.238, School Education Department dated 13.11.2018, returning the proposal citing the said G.O was improper. Paragraph Nos.6 & 7 of the order dated 30.06.2021 allowing W.P. (MD)No.10828 of 2021 read as follows:-

“6. From the materials placed on record, it is seen that the petitioner was appointed on 22.03.2018 as Record Clerk in a sanctioned post on the promotion of Mr.Jockin Peeris as Laboratory Assistant.



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Initially, the promotion of said Mr.Jockin Peeris was not approved and therefore, the the proposal sent by the fifth respondent school for approval of appointment of the petitioner was returned. After approval of the appointment of Jockin Peeris, again, the fifth respondent school sent a proposal for approval of the appointment of the petitioner. The fourth respondent again returned the proposal by the impugned order stating that the fifth respondent school sent proposal only on 14.09.2018 and as per staff strength fixed on 01.08.2018, there are 34 surplus posts. From the materials placed on record, it is seen that the petitioner was appointed on 22.03.2018 in the sanctioned post. The appointment is made based on the staff strength fixed as on 01.08.2018. However, the staff-fixation order, fixed as on 01.08.2018, relying on G.O.Ms.No.238, School Education [Paka6(1)] Department, dated 13.11.2018, is under challenge by the fifth respondent school in W.P. (MD)No.1968 of 2021. In view of the fact that the petitioner was appointed on 22.03.2018, prior to G.O.Ms.No.238, School Education [Paka6(1)] Department, dated 13.11.2018, the reasons given by the fourth respondent for returning the proposal is erroneous and invalid.

7. For the above reasons, the impugned proceedings issued by the third respondent, vide Moo.Moo.No.3917/Aa3/2020, dated 10.03.2021 and the impugned proceedings issued by the 4th respondent vide, O.Mu.No.1542/A5/2021, dated 22.04.2021, are set aside. The fifth respondent is directed to resubmit the proposal within two weeks from the date of receipt of a copy of this order. On receipt of such proposal, the respondents 1 to 4 are directed to consider the proposal of the fifth respondent school for approval of the appointment of the petitioner, taking into consideration that the petitioner was appointed on 22.03.2018, much prior to the date of issuance of G.O.Ms.No.238, School Education [Paka6(1)] Department, dated 13.11.2018, within a



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period of four weeks thereafter.”

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3. We are of the view that the reason given by the learned single Judge is well founded. Interference with the said order is not warranted. The writ appeal is dismissed. No costs.

(G.R.S., J.) (R.P., J.)
14.11.2024

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