



WP(MD) No.17236 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.06.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.17236 of 2022

and

W.M.P(MD)No.12587 & 12588 of 2022

The Secretary,
Thirthapathy Higher Secondary School,
Ambasamudram,
Tirunelveli District.

... Petitioner

Vs.

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

2. The Director of School Education,
College Road,
Chennai 6.



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3. The Chief Educational Officer,
Tirunelveli District,
Tirunelveli..

4. The District Educational Officer,
Cheranmahadevi Educational District,
Tirunelveli.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the impugned order passed by the 3rd respondent under Na.Ka.No.3406/A5/2020, dated 28.08.2020 and its consequential impugned order passed by the 4th respondent in Na.Ka.No. 0837/A4/2022 dated 26.04.2022 and to quash the same as illegal as far as condition No.1, 2, 4 and 5 are concerned and direct the 3rd respondent to approve the Appointment of D.Suriya as Junior Assistant as on 02.03.2022 with all monetary benefits.

For Petitioner : Mr.K.R.Laxman

For Respondents : Mr.M.Siddharthan

Additional Government Pleader



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ORDER

The present writ petition has been filed seeking a Writ of Certiorarified Mandamus to quash the impugned order passed by the 3rd respondent under Na.Ka.No.3406/A5/2020, dated 28.08.2020 and its consequential impugned order passed by the 4th respondent in Na.Ka.No. 0837/A4/2022 dated 26.04.2022 and direct the 3rd respondent to approve the Appointment of D.Suriya as Junior Assistant as on 02.03.2022 with all monetary benefits.

2. Heard Mr.K.R.Laxman, learned counsel for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents.

3. The appointment of Suriya as Junior Assistant is in respect of a non teaching category. By virtue of order, dated 28.08.2020, the third respondent has invoked G.O.(Ms)No.238, dated 13.11.2018 and has requested the petitioner management that the student strength for the year 2019-2020 is less than the earlier academic year. The impugned appointment has been made on 02.03.2022 which



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pertains to the academic year 2021-2022. Since the order, dated 28.08.2020 is in respect of the earlier academic year availed it is irrelevant for considering the present appointment which is under challenge.

4. The other impugned order, dated 26.04.2022 has also been passed seeking certain clarifications and as per the staff fixation done for the year 2019-2020, only one Junior Assistant post has been sanctioned and there is no sanctioned vacant post and hence, the appointment cannot be made and further, the petitioner school has not annexed the staff fixation pertains to the academic year 2020-2021, even though the appointment was of the year 22.03.2022.

5. Whatever may be the endorsements made by the second respondent, it is obligatory on the part of the petitioner to furnish the relevant staff fixation order corresponding to the academic year during which period, the post was filled. The petitioner school is an aided non-minority school.



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6. So far as the prior permission in respect of non-teaching staff is concerned, in the matter of getting prior approval, the legal position has already been settled by the Division Bench of this Court in CMP(MD) Nos.6675 & 6677 of 2023 in WA.(MD)No.816 of 2023 dated 14.06.2023.

7. The reduction of Junior Assistant strength from 2 to 1 has been done only by giving impact of G.O(Ms)No.238, dated 13.11.2018. In view of the order passed in W.A.(MD)No.816 of 2023, even the operation of G.O(Ms)No.238 itself has been stayed and hence, the staff strength at the level of Junior Assistant for the petitioner school relates back to the original position of two and hence, approval should be granted.

8. In view of the above observation and in the light of the earlier orders passed in similar such matters, I feel it is appropriate to direct the respondents to pass an order to grant approval to the appointment of D.Suriya as Junior Assistant as on 02.03.2022 subject to the outcome of W.A.(MD)No.816 of 2023.



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9. With the above direction, this writ petition is **disposed of**. No costs. Consequently, connected miscellaneous petitions are closed.

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

RM



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R.N.MANJULA, J.

RM

Order made in
W.P.(MD)No.17236 of 2022

Dated:
18.06.2024