



W.P.(MD)No.12842 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.09.2024

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THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.12842 of 2018

and

W.M.P.(MD).Nos.11717 to 11719 of 2018 & 19566 of 2023

The Correspondent,
St.Aloysius High School,
Elavuvilai-629 171,
Kanyakumari District.

... Petitioner

Vs.

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

2.The Chief Educational Officer,
Kanyakumari District at Nagercoil,
Kanyakumari District 629 001.

3.The District Educational Officer,
Kuzhithurai at Marthandam,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the third respondent District Educational Officer



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in Na.Ka.No.5543/A4/2017 dated 09.10.2017 settling the Staff Fixation for the petitioner -School for the academic year 2017-2018, quash the same in so far as it renders the single post of Physical Education Teacher, Sewing Mistress and Junior Assistant as surplus, and further direct the third respondent District Educational Officer to approve forthwith the appointment of A.Selda Joy as Sewing Mistress in the petitioner School with effect from 21.11.2016 with all attendant benefits including the arrears of salary and allowance.

For Petitioner : Mr.M.F.Rooshi Mass,
for M/s.Isaac Chambers

For Respondents : Mr.T.Amjadkhan,
Government Advocate

ORDER

This Writ Petition has been filed challenging the impugned staff fixation order dated 09.10.2017, passed by the third respondent for the academic year 2017-2018 insofar as it renders the single post of Physical Education Teacher, Sewing Mistress and Junior Assistant in the petitioner / School as surplus and further direct the third respondent to approve forthwith the appointment of one A.Selda Joy as Sewing Mistress Teacher in the petitioner / School with effect from 21.11.2016 with all attendant benefits including the arrears of salary and allowance.



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2. In the impugned order, dated 09.10.2017, three posts, viz., Physical Education Teacher, Sewing Mistress and Junior Assistant, were held to be surplus in the petitioner / School.

3. It is well settled law as held by various decisions of this Court including the decision of the Division Bench that in case of single cadre posts, the respondents cannot treat them to be surplus under the staff fixation orders. However, as seen from the impugned staff fixation order, the third respondent has held that the single cadre post of Physical Education Teacher, Sewing Mistress and Junior Assistant appointed by the petitioner / School to be surplus. The petitioner / School had also sought for approval of A.Selda Joy as Sewing Mistress Teacher from the third respondent which has also been rejected under the impugned order on the ground that the Sewing Mistress Teacher post is a surplus post in the petitioner / School.

4. In view of the settled law as observed supra, this Court is of the considered view that by total non application of mind, the impugned staff fixation order, dated 09.10.2017, has been passed by the third respondent, despite the fact that the third respondent cannot treat a single cadre sanctioned post to be surplus.



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5. In view of the same, the impugned staff fixation order dated 09.10.2017 pertaining to the petitioner / School with regard to the single cadre post of Physical Education Teacher, Sewing Mistress and Junior Assistant has to be necessarily quashed. In a similar matter, this Court by its order dated 27.08.2024 passed in ***W.P.(MD).No.22046 of 2018*** in the case of ***the Correspondent, Diocese of Madurai and Ramnad Girls High School, North Masi Street, Madurai, Madurai District-625 001 Vs. The Director of School Education, College Road, Chennai-600 006 and others***, had quashed the impugned staff fixation order and remanded the matter back to the respondents therein for fresh consideration and had directed them to pass final orders within a period of twelve weeks from the date of receipt of a copy of that order. After giving due consideration to the decision rendered by this Court with regard to the issue on hand, a similar direction will have to be issued in this matter as well.

6. Apart from issuing similar directions, a direction will have to be issued to the respondents to pass final orders on the petitioner's proposal seeking for approval of the appointment of A.Selda Joy as Sewing Mistress Teacher in the petitioner / School within a time frame to be fixed by this Court.



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7. In the result, the impugned staff fixation order dated 09.10.2017, passed by the third respondent for the academic year 2017-2018 with regard to the petitioner / School insofar as the single post of Physical Education Teacher, Sewing Mistress and Junior Assistant is hereby quashed and the matter is remanded back to the third respondent for fresh consideration on merits and in accordance with law. The third respondent is directed to pass final orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order, after giving due consideration to the settled law that in case of single cadre posts that the respondents cannot treat the same as surplus posts and in the final orders, the third respondent is also directed to approve the petitioner's proposal seeking to approve the appointment of A.Selda Joy as Sewing Mistress Teacher in the petitioner / School, if she is otherwise found eligible to hold the said post.

8. Accordingly, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

09.09.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
TSG

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To

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ABDUL QUDDHOSE, J.

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