



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.21360 of 2024
and
W.M.P(MD)No.18152 of 2024

C.David

... Petitioner

Vs.

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

2.The District Educational Officer,
(Secondary Education),
Tirunelveli, Tirunelveli District.

3.The Correspondent,
CMSES David Memorial Higher Secondary School,
Karisal - 627 414, Tirunelveli District. ...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned proceeding issued by the 2nd respondent DEO in O.Mu.No. 4785/a2/2024 dated --.07.2024 quash the same, further direct the 1st respondent Chief Educational Officer herein to approve forthwith the appointment of petitioner as Drawing Teacher in the 3rd respondent school namely, CMSES David Memorial Higher Secondary School, Karisal from the date of his appointment i.e.,18.01.2023 and disburse the grant-in-aid towards his salary and allowance w.e.f. the said date, and pass such other or further orders as this Court.



For Petitioner : M/s.A.Amala
For Respondents : Mr.J.Ashok
Additional Government Pleader
for R1 & R2

ORDER

The instant writ petition has been filed by a Drawing Teacher appointed to the third respondent school, challenging an order passed by the second respondent, wherein the request of the school management to approve the appointment of the writ petitioner has been rejected.

2.A perusal of the order impugned in the writ petition reveals that the proposal forwarded by the school management has been rejected primarily on the ground that the school being under direct payment, the order of appointment of the writ petitioner cannot be approved.

3.According to the learned Counsel appearing for the writ petitioner, when the school was under management, the petitioner was appointed on 18.01.2023. The management has forwarded the proposal to the educational authorities on 06.04.2023. The school was brought under direct management only on 14.10.2023. Therefore, the said reason cannot be cited for rejecting the proposal forwarded by the school management.



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4.Per contra, the learned Additional Government Pleader appearing for the respondents relying upon the counter had contended that once the school is under direct payment, any appointment order issued by the management cannot be approved. He further relied upon paragraph No.8 of the counter and contended that the post of a Drawing Teacher has not been sanctioned and therefore, the appointment cannot be approved.

5.I have carefully considered the submission made on either side and perused the materials available on record.

6.A perusal of the impugned order reveals that the school management had appointed the petitioner on 18.01.2023 and forwarded the proposals to the educational authorities for approval as early as on 06.04.2023. Therefore, it is clear that before the school was brought under direct payment, the management has forwarded the proposal for approval. Therefore, the contention of the authorities that the school being under direct payment, the appointment order of the writ petitioner cannot be approved is not legally sustainable.

7.Considering the fact that the petitioner is a Drawing Teacher and he has been appointed in the sanctioned post as per the staff fixation order for the



relevant academic year, the authorities are duty bound to approve the said appointment. That apart, the school is a stand alone minority institution. Therefore, the question of considering surplus teachers available under the management does not arise.

8. In view of the above said facts, the order impugned in the writ petition is hereby set aside and the respondent authorities are directed to approve the appointment of the writ petitioner w.e.f. 18.01.2023 onwards with all consequential benefits and pass orders within a period of twelve weeks from the date of receipt of a copy of this order.

9. With the above said observations, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is also closed.

15.10.2024

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



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To

- 1.The Chief Educational Officer,
Tirunelveli, Tirunelveli District.
- 2.The District Educational Officer,
(Secondary Education),
Tirunelveli, Tirunelveli District.



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R.VIJAYAKUMAR, J.

RJR

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