



W.P(MD).No.23037 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 25.11.2024

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).No.23037 of 2023
and WMP(MD).Nos.19229 & 19230 of 2023**

G.Jacob Samuel (Office Assistant)

....Petitioner

Vs

1.The Principal Secretary to the Government
School Education Department
Chennai 600 009

2.The Joint Director of School Education
Directorate of School Education
Chennai 600 006

3.The Chief Educational Officer
Office of the Chief Education Officer
Thoothukudi District 628 002

4.The District Educational Officer
Thoothukudi District

5.Pope Memorial Higher Secondary School
Sawyerpuram
Thoothukudi District 628 251.

....Respondents

Prayer : This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling the impugned records in Na.Ka.No.11949/D2/E1/2022 dated 15.03.2023 on the file of the second



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respondent and quash the same as illegal and consequently grant all service and monetary benefits with arrears of salary within the time frame as fixed by this Court.

For Petitioner : Mr.M.R.Sreenivasan

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader for R1 to R4

ORDER

The instant writ petition has been filed by an Office Assistant appointed to the fifth respondent School challenging the order passed by the second respondent on 15.03.2023 wherein his appointment has not been approved by the authorities on ground that the writ petition filed challenging G.O.Ms.No.238, School Education Department, dated 13.11.2018 are still pending and further there are 26 surplus Office Assistants within the District.

2.According to the writ petitioner, though the fifth respondent School is administered by a corporate management, yet there are no surplus Office Assistant within the corporate management on the date of appointment of the writ petitioner. He further contends that the appointment of the writ petitioner is, as per the staff fixation order in the School for the academic year 2019-2020. He had further contended that any surplus non-teaching staff not within the corporate management, cannot be taken into consideration for rejecting the request of the management.



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3.Per contra, the learned Additional Government Pleader appearing for the respondents herein had contended that the above said Government Order has been challenged and this Court has granted an interim order. In such circumstances, the question of considering the request of the management for granting approval does not arise. He had further contended that there are surplus Office Assistants within the District. Without deploying them, the appointment of the petitioner cannot be approved.

4.I have considered the submissions made on either side and perused the material records.

5.A perusal of the staff fixation order for the academic year 2020 reveals that the School has been sanctioned with one post of Office Assistant in which the petitioner has been appointed. In such circumstances, this Court is of the opinion that the petitioner's appointment cannot be considered to be surplus one. Any surplus Office Assistants available in other corporate managements cannot be a legal impediment for the authorities to consider the approval of the appointment of the writ petitioner.

6.In view of the above said facts, the order impugned in the writ petition is set aside and the third respondent is directed to approve the appointment of the writ petitioner from the date of his appointment with all attendant benefits and pass orders within a period of 12 weeks from the date of receipt of a copy of this order.



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WEB COPY 7. With the above said observations, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

25.11.2024.

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
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R.VIJAYAKUMAR, J.

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