



W.P.(MD)No.26556 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.26556 of 2022
and
W.M.P.(MD)No.20743 of 2022

U.Yesuraja

... Petitioner

Vs.

1.The Chief Educational Officer,
Virudhunagar District.

2.The District Educational Officer,
(Secondary Grade Education),
Virudhunagar,
Virudhunagar District.

3.The Correspondent,
C.S.I.Girls Higher Secondary School,
Aruppukottai – 626 101,
Virudhunagar 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 order issued by the second respondent herein in O.Mu.No.5799/A6/2022 dated Nil.10.2022, quash the same,



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and further direct the respondents 1 and 2 herein to approve forthwith the appointment of the petitioner as Watchman in the third respondent School from 18.04.2022 onwards with salary and other attendant benefits.

For Petitioner : Mr.E.V.N.Siva

For R-1 and R-2 : Mr.T.Amjadkhan
Government Advocate

ORDER

Heard Mr.E.V.N.Siva, learned counsel for the petitioner and Mr.T.Amjadkhan, learned Government Advocate for the respondents 1 and 2.

2. This Writ Petition has been filed seeking to quash the order of the second respondent dated Nil.10.2022 and further direct the respondents 1 and 2 herein to approve forthwith the appointment of the petitioner as Watchman in the third respondent School from 18.04.2022 onwards with salary and other attendant benefits.



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3. The third respondent School has appointed the petitioner as Watchman with effect from 18.04.2022 in the vacancy that arose due to the death of the previous incumbent namely J.Paulraj. Subsequently, the petitioner School has submitted a proposal to the third respondent on 16.09.2022 for approval of appointment. Thereafter, the second respondent vide proceedings dated Nil.10.2022 rejected the proposal citing the pendency of SLP(C)No.15702 of 2021 as against the order in W.A.(MD)No.76 of 2019 batch as regards the surplus teachers working in the private aided schools.

4. However, the learned counsel for the petitioner submitted that the above said SLP pertains to appointment of teaching staff, but the petitioner's appointment as Watchman relates to non-teaching staff and hence, the same is not applicable to the petitioner's case.

5. Attention was drawn to the Order dated 17.04.2024 passed by this Court in W.P.(MD)No.5393 of 2024, wherein, this Court has held as under:



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"7. However, the subject matter was pending in W.A(MD)No. 816 of 2023 which has been filed by some other petitioner and in which a portion of G.O.No.238 School Education Department dated 13.11.2018 has been stayed. The respondent has got no quarrel as regards the vacancy position of Record Clerk and that it is a sanctioned post of the relevant academic year. But the objection was regard to the implication of G.O.No.238 School Education Department dated 13.11.2018. Since the matter is subjudice, the respondent can give approval to the proposal submitted by the petitioner subject to the outcome of W.A.(MD)No.816 of 2023."

6. In the instant case also, the petitioner was appointed as a Watchman (non-teaching post) in the third respondent School, which is a sanctioned post and he is also similarly placed as that of the petitioner in W.P.(MD)No.5393 of 2024. In view of the same, the 1st and 2nd respondents can give approval to the proposal submitted by the third respondent School for appointment of the petitioner as Watchman with effect from 18.04.2022, subject to the outcome of W.A.(MD)No.816 of 2023.



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7. With the above discussion, the writ petition is **allowed** and the impugned order issued by the second respondent in O.Mu.No. 5799/A6/2022 dated Nil.10.2022 is set aside. The respondents 1 and 2 are directed to approve the appointment of the petitioner as Watchman in the third respondent School from 18.04.2022, subject to the outcome of W.A.(MD)No.816 of 2023. No costs. Consequently, connected miscellaneous petition is closed.

20.06.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To:

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



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R.N.MANJULA, J.

Nsr

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