



W.P.(MD)No.27833 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.06.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.27833 of 2023

and

W.M.P.(MD).No23924 of 2023

N.Y.Jerald Singh Das

... Petitioner

Vs.

1.The Chief Educational Officer,
Kanyakumari District.

2.The District Educational Officer,
Nagercoil,
Kanyakumari District.

3.The Correspondent,
Ringletaube Higher Secondary School,
Mylaudy - 629 403,
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 order issued by the first respondent herein in Mu.Mu. No. 5848/A4/2020 dated 28.07.2023, quash the same and further direct the respondents 1 and 2 herein to approve forthwith the appointment of petitioner as Record Clerk in the third respondent school from 01.03.2018 onwards with salary and other attendant benefits.



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

For R-1 & R-2 : Mr.M.Siddharthan,
Government Advocate

ORDER

Heard Mr.E.V.N.Siva, learned counsel appearing for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader appearing for respondent Nos.1 and 2.

2. The petitioner, who has been appointed as 'Record Clerk' in the third respondent School, has filed this Writ Petition, challenging the impugned order of the first respondent herein in Mu.Mu. No.5848/A4/2020, dated 28.07.2023, through which, the approval of the petitioner's appointment has been rejected. The reasons cited for rejecting the approval is that even prior to the appointment of the petitioner, there was surplus in the District in the year 2017-2018 and during the academic year 2018-2019, the Record Clerk post was found to be surplus in the petitioner's School.

2.1. The date of appointment of the petitioner was on 01.03.2018 and during that time, the Government Order in G.O.(Ms).No.238, School (Pa.Ka. 6(1) Department, dated 13.11.2018, which is speaking about surplus in the non-



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teaching category was not in force. Even though in the impugned order, the relevant order in W.P.(MD).No.13428 of 2020 has been mentioned, wherein, a direction has been given against respondent Nos.2 and 4 therein to consider the proposal of the petitioner's appointment without reference to G.O.(Ms).No.238, School (Pa.Ka.6(1) Department, dated 13.11.2018. The impugned order has been passed only by considering the surplus not by mentioning the Government Order number. Even as per the Government Order during 2017-2018, the Record Clerk post was not held surplus in the third respondent School and further the appointment against non-teaching staff is vacancy

3. However, Mr.M.Siddharthan, learned Additional Government Pleader appearing for respondent Nos.1 and 2 submitted that the date of appointment mentioned as 01.03.2018 itself is not true and that is evidenced from the fact that the earlier Correspondent has been relieved from the post on 13.01.2020 and in view of the fact that the new Correspondent has assumed charge after the date of appointment of the petitioner. However, the proposal has been sent on 10.03.2018 itself and was returned on 06.06.2018, during which time, the earlier Correspondent was very much available. The above reasons stated in the impugned order also does not hold good.



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4. The Division Bench of this Court has already dealt with a similar issue

in W.A.(MD).No.688 of 2015, dated 07.07.2015, wherein, it is held as follows:

8. It is now more than four years, since the observations were made in W.A(MD)No.70 of 2012 dated 13.03.2012. It is also be noted that every year as per G.O.MS.NA.525, School Education(D1) Department, dated 29.12.1997, staff fixation is done, in each school, by educational authorities, on the basis of teacher-pupil ratio. No materials have been placed before this Court, as to the staff fixation done in the subsequent years, from 2012 onwards, in the schools, in which, surplus was noticed. If the existence of surplus staff continued in the subsequent years, the department ought to have taken action only, as against the said schools and redeployment could have been done then and there. But from the submission of the learned Special Government Pleader, it is evident that no steps were taken, for all these four years. If in the subsequent years, staff fixation in the schools, in which excess was noticed, had already been approved, then the educational authorities are bound by such orders.



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9. In the light of the discussion and decisions, stated supra, we do not find any valid reason, to interfere with the order made in the writ petitions. Accordingly, the Writ Appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

5. In view of the above decision cited supra, the impugned proceedings of the first respondent herein in Mu.Mu. No.5848/A4/2020, dated 28.07.2023, is quashed and the respondent Nos.1 and 2 are directed to consider the proposal dated 17.08.2023 submitted by the third respondent positively and grant approval to the petitioner as Record Clerk within a period of four (4) weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

25.06.2024

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



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To

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- 3.The Correspondent,
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R.N.MANJULA, J.

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