



WEB COPY



W.P.Nos.32663 and 32664 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.03.2025

Coram:

THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

W.P.Nos.32663 and 32664 of 2023

D.Kousalya
M.Shobana

...Petitioner in W.P.No.32663 of 2023
...Petitioner in W.P.No.32664 of 2023

Vs.

1. The Chief Educational Officer,
Thiruppur District, Tiruppur
 2. The District Educational Officer,
Thiruppur Educational District,
Thiruppur District
 3. The Secretary,
Sri Visalakshi Girls (Govt. Aided)
Higher Secondary School,
Venkatesa Mill (Post)
Udumalpet, Thiruppur District
- ...Respondents in both the petitions.

Prayer in W.P.No.32663 of 2023:

Writ Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus directing the 1st respondent to grant approval for the appointment of the petitioner appointed in the vacant post of Office Assistant in the 3rd respondent Government aided school with effect from 14.06.2021 with all consequential monetary and attendant benefits.



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Prayer in W.P.No.32664 of 2023:

Writ Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus directing the 1st respondent to grant approval for the appointment of the petitioner appointed in the vacant post of Watchman in the 3rd respondent Government aided school with effect from 14.06.2021 with all consequential monetary and attendant benefits.

For Petitioners : Mr.R.Agilesh for
Mr.R.Gunaalan

For Respondents : Mr.S.Prabhakaran for R1 and R2
Government Advocate (Education)
R3 – Served – No appearance

COMMON ORDER

Since the issue involved in both the Writ Petitions are one and the same, they are taken up together and a common order is being passed.

2. The brief facts of the case, as averred by the petitioner, in W.P.No.32663 of 2023, are as follows:-

The 3rd respondent / School is a Government Aided School and the non-teaching staff are to be filled up, as per the Tamilnadu State Government Rules and Procedures. Since the vacancy arose in the post of Office Assistant, in view of promotion of one K.Tamilselvi, permission was obtained from the 1st



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respondent by proceedings dated 27.11.2020, after following due procedures, the petitioner was appointed. The petitioner joined duty and started working as Office Assistant, till date, the appointment of the petitioner has not been approved by the 1st respondent. Therefore, the petitioner suffers with lot of monetary difficulties, hence this petition.

3. The brief facts of the case, as averred by the petitioner in W.P.No.32664 of 2023, are as follows:-

(i) The 3rd respondent / School is a Government Aided School and the non-teaching staff has to be filled up, as per the Tamilnadu State Government Rules and Procedures. Since the vacancy arose in the post of Watchman, in view of retirement of one K.Thangavel, permission was obtained from the 1st respondent by proceedings dated 27.11.2020, after following due procedures, the petitioner was appointed. The petitioner joined duty and started working as Kavalari / Watchman, till date, the appointment of the petitioner has not been approved by the 1st respondent. Therefore, the petitioner suffers with lot of monetary difficulties, hence this petition.

4. The learned counsel for the petitioners would submit that the petitioners were appointed by the 3rd respondent and sincerely working in their respective

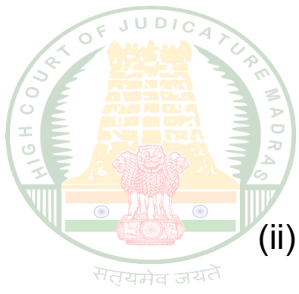


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posts. Though the 3rd respondent has periodically requested the 1st respondent for grant of approval of petitioners' appointment, the 1st respondent has not approved the appointment so far. Therefore, the fundamental rights guaranteed under Articles 14, 19 and 21 of the Constitution of India are affected, thereby pleaded to allow the present petitions.

5. The learned Government Advocate appearing on behalf of the respondents 1 and 2 filed a detailed counter affidavit in W.P.No.32664 of 2023, wherein it is averred as follows:-

(i) The Watchman post was vacant from 01.09.2018 due to K.Thangavel, watchman retired on 31.08.2018 in the 3rd respondent-School. The Management of 3rd respondent-school submitted a proposal for seeking permission to fill up the watchman post through the District Educational officer concerned. After scrutinising the proposal, the Chief Educational Officer, Tiruppur permitted the 3rd respondent to fill the watchman post in the academic year 2020-2021 itself by R.O.C.No.3885/B3/2019 dated .11.2020 and in the permission order itself, it is clearly confirmed that the watchman post has to be filled in the academic year 2020-2021 and if the permitted post was not filled in the academic year 2020-2021 the permission order may be cancelled without prior notice.

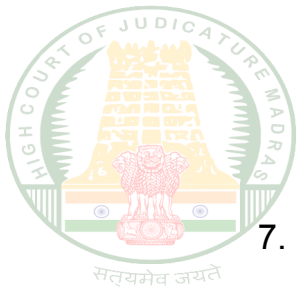


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(ii) The Management of the 3rd respondent requested the Chief Educational Officer, Tiruppur stating that due to COVID 19 situation, the Watchman post was not filled in the academic year 2020-2021, the permission order may be cancelled without prior notice. The petitioner was selected and appointed by the 3rd respondent from 14.06.2021, which is prior to the letter dated 25.06.2021 submitted by the Management to extend the permission for filling the watchman post in their school. In G.O.Ms.No.238 School Education (SE1(1) Department dated 13.11.2018 at Clause (x), it is indicated that *“(x) Based on the staff fixation order of aided schools, if any posts needs to be filled up, that may filled by surplus staffs who working in other aided schools and there is no new appointments.”*

(iii) Moreover, the claim of the petitioner that the appointment of the petitioner was not approved by the 1st respondent is totally false, in view of the fact that Management of the 3rd respondent school had not appointed the petitioner within the permitted time limit. Further, it is not possible to even consider the petitioner's request, when she was appointed in violation of Rules, thereby pleaded to dismiss the petition.

6. Heard the learned counsel on either side and perused the documents placed on record carefully.



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7. At this juncture, it is to be pointed out that the Management of the 3rd respondent requested the Chief Educational Officer, Tiruppur stating that due to COVID 19 situation, the Watchman post was not filled in the academic year 2020-2021 and sought to cancel the permission order. Further, the petitioner was selected and appointed by the 3rd respondent from 14.06.2021, which is prior to the letter dated 25.06.2021 submitted by the Management to extend the permission for filling the watchman post in their school.

8. It is to be seen that if the selection could not be considered due to covid pandemic, it is the duty of the Government to extend the time of the said selection. Even assuming that the selection has been done on 14.06.2021, which is prior to the letter dated 25.06.2021 submitted by the Management, hence, it is for the authorities to apply their mind and look into the issue and take note of the fact that the selection could not be made in the academic year only due to the Covid-19 Pandemic. Considering the same, automatically approval ought to have been granted by the Department. Therefore, the act of the Department is not acceptable by this Court and this Court hereby directs the 3rd respondent / School to submit all the relevant documents relating to the selection process in respect of the petitioner to the Educational authorities / respondents 1 and 2 to enable them to consider the same and pass appropriate orders [by



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following appropriate Rules and Procedures and by taking note of the fact that the petitioners have already been working in the said school for the past three years] permitting the 3rd respondent / School to appoint the petitioners from the date of permission granted by the Department. It is also made clear that the petitioners cannot seek for the seniority or any other claim from the school beyond their limitation.

In the result, the Writ petitions are disposed of. No costs.

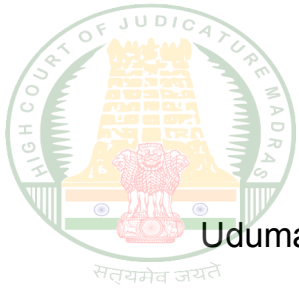
20.03.2025

Index : Yes / No
Internet : Yes / No
Speaking Order / Non Speaking Order
ssd

To

1. The Chief Educational Officer,
Thiruppur District, Tiruppur
2. The District Educational Officer,
Thiruppur Educational District,
Thiruppur District
3. The Secretary,
Sri Visalakshi Girls (Govt. Aided)
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Udumalpet, Thiruppur District

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V.BHAVANI SUBBAROYAN, J.

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