

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2007

CORAM

THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.NO.31911 OF 2004

AND

W.P.M.P.NO.2328 OF 2007

T.K.Suresh

.. Petitioner

Vs.

- 1.The Chief Educational Officer,
Villupuram,
Villupuram District.
 - 2.The District Educational Officer,
Tindivanam.
 - 3.The Secretary,
Gandhi Higher Secondary School,
Thiruchitrambalam,
Vanur Taluk,
Villupuram District.
- .. Respondents

This writ petition has been preferred under Article 226 of the Constitution of India praying for the issue of a writ of certiorarified mandamus to call for the records pertaining to the order passed by the second respondent in his proceedings O.Mu.No.1328/Aa2/2003, dated 9.4.2003 and to quash the same and to direct the respondents to approve the appointment of the petitioner as Office Assistant from 17.9.1998 and confer all the consequential benefits.

For Petitioner : Mr.S.Mani

For Respondents: Mrs.Sunmugavalli Sekar, AGP(Edu)

ORDER

Seeking writ of certiorarified mandamus to quash the order of the second respondent, dated 9.4.2003 and to direct the respondents to approve the appointment of the petitioner as Office Assistant from 17.09.1998 and to confer all the consequential benefits, this writ petition has been brought forth by the petitioner.

2.The affidavit filed in support of the petition and also the counter affidavit filed by the second respondent are perused. The court heard the learned counsel for the petitioner.

3.As could be seen from the available averments and also the submissions made by the learned counsel, the only grievance of the petitioner is that though he was appointed as Office Assistant by the third respondent Management following the interview that was

conducted and though he fulfilled the necessary qualifications and conditions, when the proposal of his appointment was placed for approval, it was denied by the second respondent, which necessitated him to file the petition before this court.

4.The learned counsel for the petitioner would submit that proper publication was made by the third respondent in the notice board on 1.6.1998, calling for applications from the persons those who have passed or failed SSLC and who are below the age of 25 years. The petitioner applied and an interview was conducted. The petitioner was selected and was appointed on 17.09.1998. He also joined on the very day. When it was placed for approval, it was denied on the reasons that the applications were not called for from the employment exchange and there was no proper publication in the media or in the newspaper and apart from that, there was a ban for recruitment of the Office Assistant. At the time when it was placed for approval, the ban was in force and both the reasons adduced for denial of approval were not correct. There was proper publication made by the third respondent management in the notice board. Apart from that, the petitioner was appointed in the year 1998. It is true, there was ban for appointment of the Office Assistant and the ban came into force in the year 2001 and thus, on the day when the appointment had taken place, there was no ban. The approval was made within time, but it was considered later. Though the approval was considered later, it cannot be taken into consideration, since the approval was only formal and under these circumstances, the order of the authority below has got to be quashed.

5.The court heard the learned counsel for the respondents on the above contentions.

6.After considering the submissions made, the court is of the considered opinion that the writ petition does not carry any merit whatsoever. It is not in controversy that the petitioner was appointed by the Management in the year 1998. The ban for recruitment of Office Assistant came into force in November, 2001. Thus, on the date of his appointment, there was no ban. It was placed for approval within time, but it was considered later. But, in the instant case, the impediment felt to grant the relief in favour of the petitioner is that as per the rule, applications should have been called for from the employment exchange or if the Management is desirous of making appointment, there should have been proper publication through media and newspaper and also through public notice board. But, in the instant case, what is noticed by the court is that there was alleged publication made by the Management in its notice board calling for applications. Conveniently, the third respondent has not appeared before the court. It is not the case of the petitioner that on the day when an interview had taken place, number of applicants were available and they were interviewed. Thus, it would be quite clear that there was no publication, calling for applications either through media or newspaper, but what was done was the alleged publication in the notice board calling for applications, which was conveniently made by the management in order to conduct an interview in respect of the petitioner alone and to give him appointment, which in the opinion of the court cannot be done.

7. In the absence of proper publication made, it would not be proper to uphold the appointment made in favour of the petitioner. Under these circumstances, denial of approval by the authority was perfectly correct. Therefore, no question of upholding the appointment of the petitioner would arise and the denial of approval, under the stated circumstances, was found to be correct and hence, no infirm or illegal is noticed. There cannot be any impediment for the third respondent to call for applications again as per the rule and there is no impediment for the petitioner also to appear for an interview and if he is selected, he can get appointment, following the procedures. The writ petition fails and the same is dismissed accordingly. No costs. Consequently, the connected WPMP is also dismissed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

vvk

To

1. The Chief Educational Officer,
Villupuram,
Villupuram District.
 2. The District Educational Officer,
Tindivanam.
 3. The Secretary,
Gandhi Higher Secondary School,
Thiruchitrambalam,
Vanur Taluk,
Villupuram District.
- + 1 CC to the Government Pleader SR NO 72528

W.P.NO.31911 OF 2004

sj[col
gp/14.12.

WEB COPY