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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2015

CORAM :

THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

Writ Appeal (MD) No.1277 of 2015

and

M.P (MD) No.2 of 2015

J.Saraladevi

..Appellant/5th Respondent

Vs.

1.Manoranjitham

..1st Respondent/Writ Petitioner

2.The Joint Director of Elementary Education,
College Road, Chennai 6.

3.The District Elementary Education Officer,
Tirunelveli.

4.The Additional Assistant Elementary
Education Officer, Kuruvikulam,
Tirunelveli District.

5.The Secretary,
Hindu Middle School,
Naranapuram,
Chathiram Kondan (Post),
Sankarankovil Taluk,
Tirunelveli District.

..2 to 5 Respondents/1 to 4 Respondents

Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 09.07.2014 made in W.P.(MD)No.10424 of 2007. Prayer in WP(MD)No.10424 of 2007 : Writ petition under Article 226 of the Constitution of India, praying for issuance of a writ of certiorarified mandamus, calling for the entire records connected with the impugned order passed by the 1st respondent in Mu.Mu.No.26954/G3/2004, dated 05.02.2007, confirming the order of the 2nd respondent in Na.Ka.No.10349/A2/05, dated 18.04.2006, quashing the same and consequently directing the respondents to approve the appointment of the petitioner as Headmistress in the 4th respondent school with effect from 27.11.2004, with all consequential benefits.

For Appellant

: Mr.V.Panneerselvam

For 1st Respondent

: Mr.S.Kadarkarai

For Respondents 2-5

: Mr.V.R.Shanmuganathan,

Special Government Pleader

**JUDGMENT**

(Judgment of the Court was delivered by **V. RAMASUBRAMANIAN, J**)

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The first respondent in this appeal was selected by the management of a private aided school for appointment to the post of Headmistress but approval for her appointment was not granted by the departmental authorities. Therefore, the first respondent filed writ petition in W.P(MD)No.10424 of 2007. The writ petition was allowed by the learned Judge by an order dated 09.07.2014.

2. Aggrieved by the success of the first respondent herein in the writ petition filed by her, the rival claimant to the post of Headmistress who was the fifth respondent in the writ petition has come up with the above writ appeal.

2. Heard Mr.V.Panneerselvam, learned counsel for the appellant. Mr.V.R.Shanmuganathan, learned Special Government Pleader takes notice for the respondents 2 to 5 and Mr.S.Kadarkarai, learned counsel takes notice for the first respondent.

3. Pursuant to the order passed by the learned Judge which is impugned in the writ appeal, the first respondent herein was notionally promoted to the post of Headmistress, granted arrears of salary and allowed to retire and all terminal benefits have also been settled. After all these things have happened the appeal filed by the present appellant, got numbered and reached for admission.

4. It is contended by Mr.V.Panneerselvam, learned counsel for the appellant that the merit and ability of the appellant vis-a-vis, the first respondent was never assessed before selecting the first respondent for appointment and that the learned Judge recorded a wrong finding. It is also his contention that the first respondent never acted as Headmistress. On the contrary, it is the appellant, according to the learned counsel, who always acted as Headmistress in charge.

5. But unfortunately, the appellant has allowed things to drift away. Today even if we do not agree with the learned Judge, we cannot direct the approval of the appointment of the appellant as the Headmistress for the very same period for which approval of appointment has been given either notionally or postfacto even after retirement. This will tantamount to directing creation of a supernumerary post and payment of salary to two persons for the same post. Hence, this appeal is dismissed. No costs. Consequently, M.P(MD)No.2 of 2015 is closed.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/



To

- 1.The Joint Director of Elementary Education,
College Road, Chennai 6.
- 2.The District Elementary Educational Officer,
Tirunelveli.
- 3.The Additional Assistant Elementary
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Tirunelveli District.
- 4.The Secretary,
Hindu Middle School,
Naranapuram,
Chathiram Kondan (Post),
Sankarankovil Taluk,
Tirunelveli District.

+1cc to Mr.S.Kadarkarai, Advocate Sr.No.69895
+1cc to M/s.C.S.Associates, Advocate SR.No.69982
+1cc to The Special Government Pleader Sr.No.70027

Akm/31.12.2015/3p-8c/SKN/SK

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