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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.03.2017

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.(MD)No. 22844 of 2016 and
W.M.P.(MD)No.16348 of 2016

M.Devadasan ... Petitioner

vs.

1. The Director of Elementary School Education,
   D.P.I.Compound, College Road,
   Chennai.

2. The District Elementary Educational Officer,
   Tirunelveli District, Tirunelveli.

3. The Assistant Elementary Educational Officer,
   Maanur Range, Tirunelveli District.

4. The Correspondent,
   T.D.T.A Middle School,
   Vadakku Vaagaikulam,
   Tirunelvali District. ... Respondents

The Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus or any other appropriate Writ or order or direction in the nature of writ calling for the records pertaining to the order passed by the 3rd respondent in his proceedings A.THI.MU.No.362, dated 18.03.2015 and quash the same, and direct the respondents to approve the appointment of the petitioner from the date of appointment i.e., from 05.12.2014 and confer all the consequential benefits.

For Petitioner : Mr.S.Chellapandian
For R1 to R3 : Mr.S.Kumar
Additional Government Pleader

O R D E R

Challenging the return of the application seeking approval of appointment of the petitioner as a B.T. Assistant in the fourth respondent school, the petitioner has come forward with this writ petition. From the proposal sent by the fourth respondent school, it is seen that the petitioner was appointed as B.T. Assistant on 05.12.2014 in the place of Jeya Mary, who was transferred on promotion as a Primary School Headmistress on 06.06.2014. It is also stated that the said Jeya Mary was handling the classes of VII standard when she was promoted as Headmistress. Therefore, the petitioner was appointed as B.T. Assistant in her place. The Assistant Elementary Educational Officer, namely the third respondent, had returned the proposals by observing that since Jeya

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Mary was working as a Secondary Grade Teacher, a B.T. Assistant cannot be appointed in her place. Therefore, the application was returned with a direction to the management to send the proposal for appointment of a Secondary Grade Teacher.

2. It is not is dispute that as per G.O.Ms.No.100 Education Department, dated 27.06.2013 and G.O.Ms.No.125 Education Department, dated 12.11.2013, the Government has issued directions to the effect that Secondary Grade Teacher, who was teaching for standards VI to VIII, either retires or goes on promotion, the vacancy that arises because of such retirement or promotion shall be filled in by a B.T. Assistant. Therefore, the return of the application by the Assistant Elementary Educational Officer is not justified. Further, it is also pointed out that the approval of an appointment of B.T. Assistant is to be considered by the District Elementary Educational Officer and the Assistant Elementary Educational Officer is only a forwarding authority. On this ground also, the impugned proceedings cannot stand legal scrutiny.

3. The learned counsel also raises certain issues regarding the staff fixation done by the Department for the year 2014-2015. Considering the nature of issues involved, the same need not be gone into in this writ petition. Leaving it open to the petitioner to raise the issue at the appropriate time. This writ petition is allowed. The second respondent, the District Elementary Educational Officer, Tirunelveli District, Tirunelveli, is directed to consider proposal for approval of the appointment of the B.T. Assistant strictly in accordance with the above said Government Orders and pass orders accordingly within a period of eight weeks from the date of the receipt of the copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar

To

1. The Director of Elementary School Education,
   D.P.I.Compund, College Road, Chennai.

2. The District Elementary Educational Officer,
   Tirunelveli District, Tirunelveli.

3. The Assistant Elementary Educational Officer,
   Maanur Range, Tirunelveli District.

+ 1 CC TO Mr.S.CHELLAPANDIAN, ADVOCATE IN SR No. 15679
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 15818

JIKR/SM
TE/SKN : 03/04/2017 : 2P/6C

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