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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CONT.P.(MD) No.1593 of 2016
in
W.P.(MD) No.5314 of 2015
and
REV.APL.W.(MD) No.7 of 2017
and
W.M.P.(MD) No.2407 of 2017

A.John Michael Stella ...Petitioner in Cont.P.(MD) No.1593 of 2016 &
1st Respondent in Rev.Apl.W.(MD) No.7 of 2017

-vs-

1.Rajamani
The District Elementary
Education Officer
Madurai District, Madurai

2.Renganayaki
The Assistant Elementary
Education Officer
Madurai West, Anaiyur
Madurai-625 107 ... Respondents in Cont.P.(MD) No.1593 of 2016 &
Petitioners in Rev.Apl.W.(MD) No.7 of 2017

3.The Correspondent
R.C.Middle School
K.Pudur
Madurai-625 007 ..2nd Respondent in Rev.Apl.W.(MD) No.7 of 2017

PRAYER (in Cont.P.(MD) No.1593 of 2016): This petition is filed under Section 11 of the Contempt of Courts Act, 1971 to punish the respondents for the deliberate and willful disobedience of the order passed in W.P.(MD) No.5314 of 2015, dated 16.08.2016.

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PRAYER (in Rev.Apl.W.(MD) No.7 of 2017): This application is filed under Order 47 Rules 1 and 2 r/w Section 114 C.P.C., to review the order, dated 16.08.2016, passed by this Court in W.P.No.5314 of 2015.

Prayer in WP(MD). 5314/ 2015 :
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondenta 1 & 2 to disburse all the monetary benefits to the petitioner from the date of appointment (i.e.) 30.06.2011 in the post of BT Assistant (English) in the 3rd Respondent School includign monthly salary and further directing the respondents 1 & 2 to pay monthly salary to the petitioner continuously.

For Petitioner : Mr.B.Saravanan
(in Cont.P.(MD) No.1593 of 2016)
& For 1st Respondent
(in Rev.Apl.(MD) No.7 of 2017)

For Respondents : Mr.V.R.Shanmuganathan, Spl. Govt. Pleader
(in Cont.P.(MD) No.1593 of 2016)
& For Petitioners
(in Rev.Apl.(MD) No.7 of 2017)

C O M M O N O R D E R

(Order of the Court by T.S.SIVAGNANAM, J.,)

The contempt petition, in Cont.P.(MD) No.1593 of 2016, has been filed alleging wilful disobedience of the order, dated 16.08.2016, passed by this Court in W.P.No.5314 of 2015. Whereas, the review application, in Rev.Apl.W.(MD) No.7 of 2017, has been filed to review the very same order.

2. The writ petition, in W.P.(MD) No.5314 of 2015 was filed by the writ petitioner for a direction upon the respondents 1 and 2 to disburse all monetary benefits to her from the date of his appointment as B.T.Assistant. The Division Bench, by order, dated 16.08.2016, directed the amount to be paid.

3. The Government is on review stating that the petitioner's appointment was not approved and she was not eligible to be appointed as B.T.Assistant since she obtained B.A.English Degree in one sitting as Double Degree and this was not brought to the knowledge of the Division Bench. This defect, which has not been raised before the Division Bench earlier, is the legal issue and the writ petitioner is also not in a position to deny the same. Therefore, the question of payment of salary will not arise in the interregnum.

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4. It is further submitted by the learned counsel appearing for the writ petitioner that the writ petitioner filed another writ petition seeking direction upon the respondents to return her T.E.T.Certificate.

5. In the light of the above, the review application, in Rev.Apl.W.(MD) No.7 of 2017, is allowed and the order, dated 16.08.2016, made in W.P.(MD) No.5314 of 2015 is recalled and consequently, the writ petition, in W.P.(MD) No.5314 of 2015 is dismissed with a direction to the review petitioners to pass a reasoned order as to why the writ petitioner's candidature cannot be considered for approval or payment of salary within a period of two weeks from the date of receipt of a copy of this order and thereafter, the writ petitioner shall workout her remedy in accordance with law.

6. In view of the fact that the review petition is allowed and the order, dated 16.08.2016, passed in W.P.(MD) No.5314 of 2015 is set aside, the contempt petition, in Cont.P.(MD) No.1593 of 2016 is closed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CSI)

/True Copy/

Sub-Assistant Registrar

To:

1.Rajamani,
The District Elementary
Education Officer,
Madurai District, Madurai.
2.Renganayaki,
The Assistant Elementary
Education Officer,
Madurai West, Anaiyur, Madurai-625 107.
+One cc to Mr.B.Saravanan, Advocate, SR.No.51025
+One cc to The Special Government Pleader, SR.No.51245
krk/skm
RL/5C/3P/RR/4.5.2017

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