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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

and

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.A(MD)Nos.524 to 528 of 2018

and

C.M.P(MD)Nos.3038 to 3046 of 2018

01.The Director of Elementary School Education,
D.P.I. Campus, College Road, Chennai.

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

... Appellants 1 and 2 in all W.As/Respondents 1 & 2

03.The Assistant Elementary Educational Officer,
Kalakad Range,
Tirunelveli District.

... 3rd appellant in W.A(MD)No.524 of 2018 / 3rd respondent

04.The Assistant Elementary Educational Officer,
Radhapuram Range,
Radhapuram,
Tirunelveli District.

... 3rd appellant in W.A(MD)Nos.525 & 527 of 2018 / 3rd respondent

05.The Assistant Elementary Educational Officer,
Palayamkottai (Rural),
Palayamkottai,
Tirunelveli.

... 3rd appellant in W.A(MD)No.526 of 2018 / 3rd respondent



06.The Assistant Elementary Educational Officer,
Tirunelveli District,
Tirunelveli.

... 3rd appellant in W.A(MD)No.528 of 2018/ 3rd respondent

Vs.

01.Muthu Archana

.. 1st respondent in W.A(MD)No.524 of 2018/ writ petitioner

02.The Correspondent,
T.D.T.A Primary School,
Athichaperi,
Tirunelveli District.

... 2nd respondent in W.A(MD)No.524 of 2018/ 4th respondent

03.R.Renuga Devi

... 1st respondent in W.A(MD)No.525 of 2018/Writ Petitioner

04.The Correspondent,
T.D.T.A Primary and Middle School,
Sithamparapuram,
Rathapuram Range,
Tirunelveli District.

... 2nd respondent in W.A(MD)No.525 of 2018/4th Respondent

05.A.Shibi Ludoes

... 1st respondent in W.A(MD)No.526 of 2018/writ petitioner

06.The Correspondent,
T.D.T.A Primary School,
Madathupatti,
Tirunelveli District.

... 2nd respondent in W.A(MD)No.526 of 2018/ writ petitioner

07.J.Jenila Angelin

... 1st respondent in W.A(MD)No.527 of 2018/ writ petitioner

08.The Correspondent,
T.D.T.A Primary School,
Marakkattuvilai,
Tirunelveli District.

... 2nd respondent in W.A(MD)No.527 of 2018 / 4th respondent



09.J.Juliet

... 1st respondent in W.A(MD)No.528 of 2018/ writ petitioner

10.The Correspondent,
S.T.C.Br.Middle School,
Megalingapuram,
Sinthupoondurai,
Tirunelveli District.

... 2nd respondent in W.A(MD)No.528 of 2018/ 4th respondent

COMMON PRAYER: Writ Appeals are filed under Clause 15 of the Letters Patent, to set aside the common order dated 18.11.2016 in W.P(MD) Nos.22075, 22076, 22077, 22078 and 22079 of 2016 respectively.

Prayer in WP(MD.No.22075/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 2nd respondent in his proceedings A.Thi.Mu.NO. 3194/A5/2015, dated 02.03.2016 and consequential order passed by the 3rd respondent in Na.Ka.No. 722/A2/2016 dated 13.10.2016 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.

Prayer in WP(MD).No.22076/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 2nd respondent in his proceedings O.Mu.No. 214/A3(A2)/2015, dated 17.12.2015 and consequential order passed by the 3rd respondent in A.Thi.Mu.No.26/A2/2016 dated 08.01.2016 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.

Prayer in WP(MD.No.22077/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 3rd respondent in his proceedings in A.Thi.Mu.No.1988/A1/2016 dated 14.10.2016 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.

**Prayer in WP(MD).No.22078/ 2016 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 2nd respondent in his proceedings A.Thi.Mu.NO. 2540/A3/2016, dated 12.07.2016 and consequential order passed by the 3rd respondent in Na.Ka.No. 148/A2/2016 dated 27.07.2016 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.

Prayer in WP(MD). 22079/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 3rd respondent in his proceedings Na.Ka.262/A1/2016, dated 25.10.2016 and quash the same and direct the respondents to approve the appointment of the petitioner from the dated of appointment i.e., from 05.12.2014 and confer all the consequential benefits.

For Appellants : Mr.A.K.Baskarapandian,
(In all W.As) Special Government Pleader

For R-1 in
W.A(MD)No.524/2018 : Mr.S.Chellapandian

For R-1 in
W.A(MD)No.526/2018 : Mr.V.Paneer Selvam

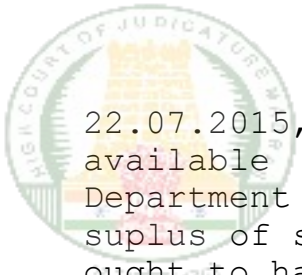
COMMON JUDGMENT

(Judgment of the Court was made by DR.ANITA SUMANTH,J.)

These writ appeals are filed challenging an order passed by the learned single Judge dated 18.11.2016 in W.P(MD)Nos.22075 to 22079 of 2016 filed for the issuance of a Writ of Certiorarified Mandamus quashing the order passed by the District Elementary Educational Officer, Tirunelveli District and directing the respondents to approve the appointment of the petitioners from the date of appointment.

2. Heard Mr.Baskarapandian, learned Special Government Pleader appearing for the appellants in all the writ appeals, Mr.Chellapandian, learned counsel appearing for the first respondent in W.A(MD)No.524 of 2018 and Mr.Paneer Selvam, learned counsel appearing for the first respondent in W.A(MD)No.526 of 2018.

3. When the matter was called, Mr.Baskarapandian, fairly brought to our notice two decisions of this Court in W.A(MD)No.687 of 2015, dated 19.06.2015 and W.A(MD)No.798 of 2015 dated



22.07.2015, to the effect that in the event of surplus staff found available subsequent to the order of fixation of staff, the Department ought to take action only against the said school where surplus of staff was determined and redeployment of the surplus staff ought to have been done then and there.

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4. In Paragraph No.8 in W.A(MD)No.687 of 2015, dated 19.06.2015, the Division Bench states as follows:

.....

8. It is now more than four years, since the observations made in W.A(MD)No.70 of 2012 dated 13.03.2012. It is also be noted that every year as per G.O.MS.NA.525, School Education (D1) Department, dated 29.12.1997, staff fixation is done, in each school, by educational authorities, on the basis of teacher-pupil ratio. No materials have been placed before this Court, as to the staff fixation done in the subsequent years, from 2012 onwards, in the schools, in which, surplus was noticed. If the existence of surplus staff continued in the subsequent years, the department ought to have taken action only, as against the said schools and redeployment could have been done then and there. But from the submission of the learned Special Government Pleader, it is evident that no steps were taken, for all these four years. If in the subsequent years, staff fixation in the schools, in which excess was noticed, had already been approved, then the educational authorities are bound by such orders.

...."

5. In the light of the aforesaid decisions, we find no merit in these writ appeals and the same stand dismissed. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(W)

/True copy/

Sub Assistant Registrar

To

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

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



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

4.The Assistant Elementary Educational Officer,
Radhapuram Range,
Radhapuram,
Tirunelveli District.

5.The Assistant Elementary Educational Officer,
Palayamkottai (Rural),
Palayamkottai,
Tirunelveli.

6.The Assistant Elementary Educational Officer,
Tirunelveli District,
Tirunelveli.

+1cc to Mr.S.Chellapandian, Advocate, SR.No.71099.
+1cc to Mr.V.Paneer Selvam, Advocate, SR.No.71165.

W.A (MD) Nos.524 to 528 of 2018
03.07.2018

pm

RAM/RP/SAR 2/13.07.2018/6P/9C