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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2018

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
HE HONOURABLE MR.JUSTICE N.SATHISH KUMAR
W.A.(MD).No.816 of 2018
and
C.M.P.(MD).No.4866 of 2018

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

2.The Assistant Elementary Educational Officer,
Valliyoor, Tirunelveli District.
... Appellants/Respondents 1 & 2

Vs.

1.D.Stanely ... 1st Respondent/Writ Petitioner
2.The Secretary,
Hindu Primary School,
Veerapandian, Panagudi,
Tirunelveli District. ... 2nd Respondent/3rd Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letter Patent, against the order passed by this Court in W.P.(MD).No.11070 of 2015, dated 06.03.2018.

Prayer in WP(MD)No. 11070/ 2015 :

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 relating to the proceedings of the Impugned order in Na.Ka.No.2725/A4/2014 dated 01.06.15 on the file of 1st respondent and quash the same and further directing the 1st respondent to approve the appointment of the petitioner as Secondary Grade Teacher in the 3rd respondent school with effect from 14.11.11.

For Appellants : Mrs.S.Srimathi
Special Government Pleader
For R1 : Mr.J.Anandkumar
For R2 : Mr.V.Paneerselvam

JUDGMENT

[Judgment of the Court was made by M.M.SUNDRESH,J.]

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There is no dispute on the primary fact that the writ

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petitioner was appointed on 14.11.2011, which is one day prior coming into force of the G.O.Ms.No.181, School Education Department, dated 15.11.2011. However, as per the said G.O., such appointee will have to complete Teachers Eligibility Test (TET) by the end of March 2019. Therefore, until and unless the writ petitioner clears the examination, the question of approval would not arise.

2.However, there is one more difficulty will arise, which is the payment of salary. It is not in dispute that in similar cases, salary was directed to be paid to the person appointed by the Management, with a caveat such payment will not amount to approval, which is depend upon clearing the said Test.

3.Accordingly, this writ appeal is disposed of by directing the appellants to pay salary to the writ petitioner from the date of appointment of the writ petitioner and thereafter continue to pay, till the publication of the examination, which would undertake by the petitioner to complete the said Test on or before March 2019. If the writ petitioner clears the examination by passing TET Test, the appellants shall approve the appointment of the writ petitioner. We make it very clear that this order is passed without prejudice to the pending revision filed by one Kasthuri, who has been terminated from service and in that place, the writ petitioner has been appointed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-II)

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To
1.The District Elementary Educational Officer,
Tirunelveli, Tirunelveli District.

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

+1cc to Mr.V.Panneer Selvam, Advocate in SR No.86950
+1cc to Spl Government Pleader SR No.86825

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NM/SV/SAR II/12.10.18/2P/5C