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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 20.03.2018

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND

THE HONOURABLE Mrs.JUSTICE R.THARANI

W.A. (MD) .Nos.471 to 475 of 2018
and
connected miscellaneous petitions

W.A. (MD) No.471 to 475 of 2018

1. THE DIRECTOR OF ELEMENTARY SCHOOL EDUCATION,
D.P.I.CAMPUS, COLLEGE ROAD, CHENNAI.
2. THE DISTRICT ELEMENTARY EDUCATIONAL OFFICER,
TIRUNELVELI DISTRICT, TIRUNELVELI... APPELLANTS 1&2/RESPONDENTS
R1 & R2 IN ALL WAS.
3. THE ASSISTANT ELEMENTARY EDUCATIONAL OFFICER,
RADHAPURAM RANGE,
TIRUNELVELI DISTRICT, TIRUNELVELI.... 3RD APPELLANT/
3RD RESPONDENT/IN WA 471,472 OF 2018

THE ASSISTANT ELEMENTARY EDUCATIONAL OFFICER,
MELANEELITHANALLUR RANGE,
MELANEELITHANALLUR,
TIRUNELVELI DISTRICT. TIRUNELVELI.

... 3RD APPELLANT/ RESPONDENT 3
IN WA (MD) NO.473 OF 2018

THE ASSISTANT ELEMENTARY EDUCATIONAL OFFICER,
RATHAPURAM RANGE, RATHAPURAM,
TIRUNELVELI DISTRICT. TIRUNELVELI.

... 3RD APPELLANT/ 3RD RESPONDENT
IN WA (MD) NO.474 OF 2018

THE ASSISTANT ELEMENTARY EDUCATIONAL OFFICER,
PAPPAKUDI RANGE, TIRUNELVELI DISTRICT.
TIRUNELVELI.

... 3RD APPELLANT/ 3RD RESPONDENT
IN WA (MD) NO.475 OF 2018

VS.

1. P.MANGALAM ... 1ST RESPONDENT/ PETITIONER

2. THE CORRESPONDENT,
T.D.T.A.PRIMARY & MIDDLE SCHOOL,
MADATHACHAMPATTU,
RADHAPURAM RANGE,
TIRUNELVELI DISTRICT.

... 2ND RESPONDENT/4TH RESPONDENT IN
WA 471,472 OF 2018



1 S. ABIBA KESIA RANI

... 1ST RESPONDENT/ PETITIONER

2 THE CORRESPONDENT,
TDTA PRIMARY SCHOOL,
UVARI, RADHAPURAM RANGE.

... 2ND RESPONDENT/ 4TH RESPONDENT
IN WA 472 OF 2018

1 V. JEBA SELVA MARY

... 1ST RESPONDENT/ PETITIONER

2 THE CORRESPONDENT,
TDTA PRIMARY MIDDLE SCHOOL,
ACHAMPATTI, MELANEELITHANALLUR RANGE.

... 2ND RESPONDENT/ 4TH RESPONDENT
IN WA 473 OF 2018

1 S. MUTHU KARUNAYA JEBA SELVI

... 1ST RESPONDENT/ PETITIONER

2 THE CORRESPONDENT,
TDTA PRIMARY MIDDLE SCHOOL, ACHAMPATTI,
KEELASADAYAMANKULAM, TIRUNELVELI DIST.

... 2ND RESPONDENT/ 4TH RESPONDENT
IN WA 474 OF 2018

1 P. JENCY LELLA

... 1ST RESPONDENT/ PETITIONER

2 THE CORRESPONDENT
TDTA PRIMARY MIDDLE SCHOOL SADAYAPPA PURAM
TIRUNELVELI DIST.

... 2ND RESPONDENT/ 4TH RESPONDENT
IN WA 475 OF 2018

COMMON PRAYER: These appeals are filed under Clause 15 of the Letters Patent, to set aside the order dated 10.11.2016 made in W.P.(MD) Nos.21523 to 21527 of 2016 on the file of this Court.

Prayer in WP(MD). 21523/ 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 O.Mu.No. 687/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 5.12.2014 and confer all the consequential benefits.

Prayer in WP(MD). 21524/ 2016 :

<https://hcservices.ecourt.gov.in/hcservices/PostPetition> 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 O.Mu.No. 677/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 5.12.2014 and confer all the consequential benefits.

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Prayer in WP(MD). 21525/ 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 Athi.Mu.No.169/A1/2016, dated 29.03.2016 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). 21526/ 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 A.THI.MU.NO.1067/A1/16, 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 5.12.2014 and confer all the consequential benefits.

Prayer in WP(MD). 21527/ 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 O.Mu.No. 937/A1/15, dated 4.9.2015 and Quash the same, and direct the respondents to approve the appointment of the petitioner from the date of appointment i.e., from 5.12.2014 and confer all the consequential benefits.

In all appeals

For Appellant

For Respondent

: Mr.V.R.Shanmuganathan, Spl.G.P.

: Mr.S.Chellapandian for R2

Mr. V.Panneer Selvam, for R1

in WP(MD) No.471,472,473)

COMMON JUDGMENT

(Judgment of this Court was delivered by **T.S.SIVAGNANAM, J.)**

These appeals by the Director of Elementary Education and others are directed against the common order in W.P.(MD) No.21523 TO 21527 OF 2016 dated 10.11.2016. The respondents/writ



petitioners, who are teachers working in various schools under TDTA Corporate Management of Institutions have filed writ petitions challenging the order passed by the respective third appellants, refusing to approve their appointment on the ground that there are surplus teachers in the Corporate Management schools.

3.We have elaborately heard Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the appellants and Mr.Chellapandian learned counsel for the respective first respondents.

4.The matter has arisen on account of the fact that the Corporate Management like that of the respondent Management runs several schools and in terms of the provisions of Tamil Nadu Private Schools Regulation Act, they are treated as single unit. When the staff fixation is done for an academic year, the department assess the students strength and in case, there are adequate number of students, the staff fixation, which was done in the previous year is confirmed. In case, where there is fall in strength, there is refixation of the staff strength and wherever there are excess teachers found, they are declared as surplus. Since the respondent Corporate Management is treated as single unit, they are required to transfer those surplus teachers to any one of the needy schools, within the Corporate Management.

5.The learned Special Government Pleader submits that invariably, the Corporate Management do not do so and continue to claim that they are entitled to fill up the vacancies in the various schools under their Corporate Management.

6.In our considered view, the Education Department can very well ascertain as to whether any particular school in a Corporate Management has excess staff strength and if there is excess strength, the Corporate Management can be directed to transfer the teachers to any other school, within their Management, where there are sanctioned vacancy. If they refuse to do so, nothing prevents the appellants from stopping the staff grant. However, for the reasons best known, the Department has not taken a stern action on any of the Corporate Managements.

7.The learned Special Government Pleader submits that on account of non transfer of the surplus teachers within the Corporate Management, there is a heavy loss of revenue to the exchequer and necessary directions have to be issued by this Court in this regard.

8.So far as the facts of the present cases are concerned, <https://hcservices.punjab.gov.in/hcservices/> pointed by the learned Special Government Pleader does not arise in these cases on account of the fact that the District Elementary Educational Officer while ascertaining the



staff strength for the academic year 2014-15 found that there are 30 excess teachers in the various schools run by the respondent Corporate Management and instructions were given to the Corporate Management, who, in turn have transferred 30 such excess teachers to various other needy schools within their Management. These proceedings having been endorsed by the District Elementary Educational Officer, binds the department.

9.The Writ Court taking into consideration the said stand taken by the department has allowed the writ petitions. Thus, we find that the present cases are factually different from the other cases, which the learned Special Government Pleader has focussed before us and on facts, we are convinced that the department have certified that as on date, when the respondent teachers were appointed and request was made for approval of their appointment, the excess teachers within the same Corporate Management have been transferred to other needy schools within the same Management and these proceedings has been endorsed by the District Elementary Educational Officer.

10.Thus, only on the said ground, we are convinced that the appellants have not made out any case for interference with the order passed in the writ petitions. However, we make it clear that the other legal issues canvassed by the learned Special Government Pleader are left open to be adjudicated in an appropriate case, where facts demand so.

11.Accordingly, these writ appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

+3cc to Mr. V.Panneer Selvam, Advocate Sr.No.56713,56714,56715
+1cc to Mr.S.Chellapandian, Advocate Sr.No.57029

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VB/SKN/RSK/SAR3/18/04/2018/5P/5C

**W.A. (MD) .Nos.471 to 475 of 2018
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