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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **LPA 900/2015 & CM APPLs. 30622/2015, 5051/2017 & 5053/2017**
SANJAY GUPTA Appellant

Through: Ms. Zubeda Begum, Ms. Sana Ansari
and Ms. Mrigna Shekhar, Advocates.

versus

DIRECTOR OF EDUCATION & ORS. Respondents
Through: Ms. Prabhasohay Kaur, Advocate for
R-DOE.
Ms. Gauri Puri, Advocate for R-2 to
R-4 with Mr. Niraj Singh, Advocate.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE SANJEEV NARULA

ORDER
13.11.2018

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1. Learned counsel for the Respondents No. 2 and 3 schools has made a statement on instructions that in both these schools the post of Head Clerk is at present lying vacant. It is offered that the Appellant can join either of these schools as Head Clerk upon his return from his sick leave. It is further stated that the question of the Appellant being junior to any existing Head Clerk does not arise. Also, there are further promotional avenues beyond the post of Head Clerk.

2. Learned counsel for the Appellant, on instructions, accepts the above offer subject to the rider that the date of appointment as a Head Clerk without the benefit of any back wages etc. should notionally be from the

date that the said post fell vacant.

3. In view of the above submissions, it is directed that the Appellant will, within a period of one week from today, intimate either Respondent No. 2 or Respondent No.3 school of his decision to join either of them in the post of Head Clerk by indicating a firm date of joining.

4. On the completion of his sick leave, the Appellant will join the post of Head Clerk as per the option indicated by him. His appointment as Head Clerk will be notionally from the date on which such post fell vacant. It is, however made clear that the Appellant will not be entitled to any arrears of salary emoluments etc. as Head Clerk from the date of such notional appointment. He will be entitled to the emoluments, salary etc. as Head Clerk only from the date on which he reports for duty in such post.

5. The questions of law that arise from the impugned judgment of the learned Single Judge are left open for consideration in an appropriate case.

6. The appeal is disposed of in the above terms. The pending applications are also disposed of. Order *dasti*.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

NOVEMBER 13, 2018/nk