

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2019

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.A.No.359 of 2016
and C.M.P.No.5362 of 2016

- 1.The Director of School Education,
College Road, Chennai- 6.
- 2.The District Educational Officer,
Tiruvannamalai District. Appellants

-vs-

K.Senthil Kumaran Respondent

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 04.10.2012 made in W.P.No.10820 of 2011.

WP.No. 10620 of 2011: Writ Petition filed under Article 226 of Constitution of India praying for issuance of Writ of Mandamus directing directing the 2nd respondent to approve the appointment of Tmt.S.Vennila as Junior Assistant w.e.f. 21.10.2009 with all consequential benefits in the petitioner school on the basis of the proposal of the petitioner school dt 22.10.2009.

For Appellants : Mr.P.Raja,
Govt. Advocate
For Respondent : No appearance

JUDGMENT

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

The writ petition was filed by the respondent seeking a writ of mandamus directing the second appellant to approve the appointment of R.Vennila as Junior Assistant with effect from 21.10.2009.

2.Learned single Judge was pleased to pass an order directing the second appellant to consider the case in the light

of the judgment of the Division Bench in W.A.(MD) No.928 of 2010 dated 11.01.2011. Challenging the same, the present writ appeal has been filed.

3.Heard the learned Government Advocate appearing for the appellants. Despite service of notice and the name of the respondent having been printed in the cause list, none appears on behalf of the respondent.

4.We are of the view that the writ appeal is misconceived. Learned single Judge merely directed the second appellant to consider the case of the writ petitioner in accordance with law and in the light of the judgment of the Division Bench referred supra. If, according to the second appellant, the judgment of the Division Bench has been delivered on a different footing, it is open to him to pass appropriate orders in the manner known to law. The learned single Judge has also not dealt with the issue of appointment made during the ban period, which is also a matter to be considered by the second appellant. The question of prior approval has also to be seen in the light of the judgment of the Division Bench. If the judgment of the Division Bench has dealt with the issue, then, it is not open to the appellants to contend to the contrary being parties and therefore, the observation would be binding on them. Further more, the order of the learned single Judge has not been given effect to, of course, without prejudice to the contentions in the writ appeal.

5.In such view of the matter, we are not inclined to interfere with the order of the learned single Judge. However, it is open to the appellants to pass appropriate orders in the light of the discussion made above on merits and in accordance with law. The writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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TO

1.The Director of School Education,
College Road, Chennai-6.

2.The District Educational Officer,
Tiruvannamalai District.

+1cc to the Government Pleader, S.R.No. 4006

W.A.No.359 of 2016

KJI (CO)
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