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WA.(MD)No.1398 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD)No.1398 of 2019

and

C.M.P. (MD)No.11524 of 2019

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

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

3.The Block Educational Officer,
Sengottai, Tirunelveli District.

... Appellants/Respondents

Vs.

1.Doris Jeyarani ...1st Respondent/Writ Petitioner

2.The Correspondent,
A.G.Primary School,
Sengottai-627 809,
Tirunelveli District. ..2nd Respondent/4th Respondent

PRAYER: Writ Appeal is filed under Clause 15 of the Letter Patent Act, to set aside the order dated 27.06.2018 in W.P.(MD)No.13459 of 2018 on the file of this Court and dismiss the writ petition.

Prayer in WP(MD). 13459/ 2018 :

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 impugned proceedings issued by the 1st respondent herein vide Na.Ka.No.3866 / Aa2 / 2017 dated 13/03/2018, quash the same and further direct the 2nd respondent herein to approve the appointment of petitioner as Secondary Grade Teacher in the 4th respondent school w.e.f., 02/04/2012 and disburse grant - in - aid towards salary and other attendant benefits.

For Appellants

: Mrs.Srimathy

Special Government Pleader

For R1

: Mr.Ajith Geethan



JUDGMENT

மதுரை [Judgment of this Court was made by **T.S.SIVAGNANAM, J.**]

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Heard Mrs.Srimathy, learned Special Government Pleader for the appellant and Mr.Ajith Geethan, learned counsel for the first respondent. By consent on either side, this writ appeal is taken up for final disposal.

2. This appeal has been filed by the District Elementary Educational Officer, Tirunelveli and two others challenging the order passed by in W.P.(MD)No.13459 of 2018 dated 27.06.2018.

3. The said writ petition was filed by the first respondent herein challenging the proceedings of the first respondent / first appellant dated 13.03.2018, whereby the first respondent / first appellant rejected the proposal sent by the second respondent Management seeking approval of the appointment of the first respondent as Secondary Grade Teacher with effect from 02.04.2012.

4. The learned Special Government Pleader contended that at the relevant point of time, there were excess posts and on account of the same, the approval was refused. The other ground, on which the approval was refused was that the first respondent did not possess the qualification of pass in Teacher Eligibility Test (hereinafter referred to as 'TET').

5. With regard to the second issue, the same has been decided in several cases holding that there is no mandatory requirement for the Teacher for appointment in a Minority Educational Institution to possess TET qualification. One such order was passed in the case of **K.Anita Vs. The State of Tamil Nadu, rep. by its Secretary and others** [W.A.(MD)No.1090 of 2017] dated 26.02.2018. Therefore, on the said ground, the approval could not have been refused by the first appellant.

6. The second reason assigned by the first appellant for refusing to approve the appointment is by stating that there were excess Teacher in the same Management. The correctness of the same was tested by the learned writ Court by referring to the contents of the order impugned in the writ petition dated 13.03.2018 and it was rightly pointed out that on the date, when the first respondent was appointed i.e., on 02.04.2012, namely the academic year 2011-12, there was no surplus posts. This aspect has been discussed by the learned writ Court in paragraph 14 of the impugned order. In such circumstances, merely because the appeal was kept pending and taken for consideration only in



the year 2018, the first respondent cannot be put to hardship and approval of her appointment cannot be rejected.

7. More or less, an identical circumstances was considered by us in the case of the **Director of Elementary School Education and others vs. P.Mangalam and another** [W.A.(MD)Nos.471 to 475 of 2018] dated 20.03.2018, the appeal filed by the Department was dismissed. Therefore, we find that both grounds, based on which the order impugned in the writ petition was passed, are not sustainable in law. Therefore, we find no reason to interfere with the order passed by the learned writ Court. Accordingly, this writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD II)

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Sub Assistant Registrar(CS)

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