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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.A(MD)No.811 of 2012

and

M.P. (MD)No.1 of 2012

Rachel Deva Anbu Nesammal

... Appellant / Petitioner

Vs.

1.The Manager,
TDTA Primary & Middle School,
Diocesan Office,
Palayamkottai,
Tirunelveli - 2.

2.The Correspondent,
TDTA Middle School,
Kaluthur,
Nanguneri,
Tirunelveli District.

3.The District Elementary Educational Officer,
S.N.High Road,
Tirunelveli - 2.

4.The Additional Assistant Elementary Educational Officer,
Nanguneri Region,
Tirunelveli District.

... Respondents/Respondents

PRAYER : Writ Appeal filed under Clause 15 of the Letters Patent praying this Court to set aside the order passed in W.P(MD)No.2646 of 2009, dated 03.09.2012 and to allow the above Writ Appeal.

Prayer in WP(MD). 2646/ 2009 :

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 order of the 1st respondent dated 24.3.2009 and quash the same and consequently direct the respondent to approve the promotion of the petitioner as Headmistress of TDTA Middle School, Kaluthur, with all monetary benefits along with arrears of salary from the date of promotion.

For Appellant

: Mr.Pon Ramkumar

for Mr.P.Santhosh Kumar

For Respondents

: Mr.S.Chellapandian - R1

Mr.G.Prabhu Rajadurai - R2



JUDGMENT

R. SUBRAMANIAN, J.

AND

N. SATHISH KUMAR, J.

The petitioner in W.P.(MD) No.2646 of 2009 is on appeal challenging the order of the Writ Court in dismissing her writ petition, wherein, she challenged the order of the first respondent management, dated 24.03.2009, reverting her from the post of Middle School Headmistress to the post of Elementary School Headmistress.

2. The petitioner claimed that she was promoted as a Middle School Headmistress on 11.08.2008 by one Mr.Jacob Chellaiah, who according to her, was authorised to make an appointment.

3.The petitioner was promoted by one Jacob Chellaiah as a Middle School Headmistress on 11.08.2008. One Daniel Bagawath Singh was promoted as a Middle School Headmaster to the very same School on 19.08.2008. He claimed to have been appointed by one Rev. Peter Devadoss.

4.The management claimed that Mr.Jacob Chellaiah was not entitled to make an appointment or promotion. Therefore, the petitioner filed W.P.(MD) No.7978 of 2008 seeking a Mandamus to permit the petitioner to continue as a Headmistress. The management filed a counter affidavit in the said writ petition stating that it will not disturb the petitioner while reserving a right to proceed against the petitioner as per the rules, observing principles of natural justice to set aside the order, dated 11.08.2008. Thereafter, the management concluded that the person who appointed the petitioner namely, Mr.Jacob Chellaiah was not entitled to make any appointment and on the basis of an enquiry report, reverted the petitioner to the post of a Elementary School Headmistress on 24.03.2009. The petitioner challenged this order of reversion in W.P.(MD) No.2646 of 2009. Pending the Writ Petition, the petitioner sought for stay of the order of reversion. Interim stay was refused. The petitioner filed a Writ Appeal in W.A.(MD)No.140 of 2009, and obtained an order of stay of reversion. Subsequently, the said Writ Appeal was also dismissed.

5. In similar matters in W.P.(MD) No.89 of 2009, this Court elaborately considered the rival claims as many Teachers were appointed by the rival groups to various posts. This Court held that the appointments made by Mr.Jacob Chellaiah, are not valid and they are illegal. On such conclusion, this Court dismissed all the writ petitions. The said order of Hon'ble Mr.Justice Chandru, made in W.P.(MD) No.89 of 2009 was challenged upto the Hon'ble Supreme Court and the same was confirmed. Therefore, the petitioner's appointment was rendered illegal.



6. The challenge in this writ petition is to the order of reversion on the basis that the petitioner's promotion itself was illegal. The same cannot be countenanced in as much as the conclusion of this Court that Mr. Jacob Chellaiah, who appointed the petitioner, has no right to appoint her as a Middle School Headmistress has been affirmed by the Hon'ble Supreme Court. Therefore, the Writ Court following the earlier judgments, dismissed the Writ Petition filed by the petitioner. Aggrieved, the petitioner has come up with this Writ Appeal.

7. After the dismissal of the Writ Appeal in W.A.(MD) No.140 of 2009, the petitioner has now rejoined as Elementary School Headmistress and thereafter, she has been promoted as Middle School Headmistress also.

8. It is the grievance of the petitioner that the salary for the period covered by the stay order has not been paid to her.

9. Considering the prayer in the Writ Petition, we don't think we should go into that question. The challenge in this Writ Petition is to the order of reversion. This order of reversion has to be upheld because of the orders passed by this Court in W.P.(MD) No.89 of 2009, which has been upheld by the Hon'ble Supreme Court.

10. We, therefore, see no reason to interfere with the order of the Writ Court. The Writ Appeal fails and accordingly, the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed. It will be open to the petitioner to work out the remedy, if any, against the said Jacob Chellaiah, who had promoted her, without authority.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

rm

To

1.The District Elementary Educational Officer,
S.N.High Road,
Tirunelveli - 2.

2.The Additional Assistant Elementary Educational Officer,
Nanguneri Region,
Tirunelveli District.

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+1 CC to M/s.P. SANTHOSHKUMAR, Advocate (SR-17403[F] dated 08/04/2022)



+1 CC to M/s.CHELLAPANDIAN, Advocate (SR-17550[F] dated 08/04/2022)

+1 CC to M/s.SPL.G.P (SR-17622[F] dated 08/04/2022)

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