

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-08-2015

CORAM:

THE HON'BLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.23646 of 2015

1 Mr.K. Prabhu ... Petitioner

Vs

1 Director of Collegiate Education
College Road Chennai-600 006.

2 The Joint Director Of Collegiate Education
Tirunelveli Region
Tirunelveli-627 001.

3 The Secretary
Scott Christian college
Nagercoil
Kanyakumari District-629 003. ... Respondents

Writ Petition under Article 226 of the Constitution of India praying for a writ of mandamus Directing the 1st Respondent to approve the petitioners appointment as Watchman in the Scott Christian College Nagercoil in the Sanctioned vacancy caused by the promotion of Mr.K. Arputha Raj with effect from 09.02.2006 in the light of approval given to a similarly placed non-teaching staffs Mr.M. Stephen and Mr. Cithirairaj Gananadhasan vide Na. Ka. No.59741/F2/2014 dated 13.01.2015 with all monetary benefits and also based on this Honourable Court and Supreme Court orders passed in W.P.No. 23712 of 2008 dated 26.09.2008 W.A.No.99 of 2009 dated 24.04.2009 and SLP.No.27331 of 2013 dated 04.10.2013 with monetary benefits Seniority in service and other attendant benefits with effect from 09.02.2006

For petitioner : Mrs. A.V. Bharathi

For respondent : Mr. V. Subbiah, Spl.G.P.

ORDER

By consent, the main writ petition is taken up for final hearing.

2. The petitioner was appointed as Watchman in the sanctioned vacancy, consequent upon the retirement of the incumbent with effect from 09-02-2006 making repeated representations praying for approval from the date of original appointment and since he has not been favoured with any kind of response, he has come forward with this writ petition.

3. The learned counsel for the petitioner would submit that in similar facts and circumstances, this Court vide order dated 26-09-2008 in W.P.No.23712 of 2008 (X. Joice Issabella Vs. Director of School Education and others) has set aside the order of the second respondent, viz., the District Educational Officer, Coimbatore District and directed the second respondent to approve the appointment of the petitioner, within a stipulated time, as Junior Assistant in the third respondent-School with effect from 16-10-2006, by placing reliance upon the order, dated 30-10-2007 in W.P.(MD) No.484 of 2007, wherein it has been observed among other things that since the petitioner was appointed from 05-06-2002 and he is continuously working in the sanctioned post, the respondents may not be justified in not approving the appointment of the petitioner and the same has been confirmed by the Division Bench vide judgment, dated 04-08-2008 in W.A.(MD)No.308 of 2008. The learned counsel for the petitioner would further submit that the order, dated 26-09-2008 in W.P.No.23712 of 2008, was put to challenge in W.A.No.99 of 2009 by the official respondents and vide judgment, dated 24-04-2009 the Division Bench of this Court has confirmed the said order and the Special Leave Petition filed against the same was also dismissed on 04-10-2013. Therefore, the learned counsel for the petitioner would submit that the appointment of the petitioner may be directed to be approved and prays for appropriate orders.

4. Heard the learned Special Government Pleader appearing on behalf of the respondents.

5. This Court considered the rival submissions and also perused the proceedings of the first respondent, dated 13-01-2015, the order of this Court, dated 26-09-2008 in W.P.No.23712 of 2008 (X. Joice Issabella Vs. Director of School Education and others), the judgment of the Division Bench of this Court, dated 24-04-2009 in W.A.No.99 of 2009 and the order of the Supreme Court in S.L.P.(Civil)No.27331 of 2013 dated 04-10-2013. In the light of above facts and circumstances of the case, this Court directs the respondent Nos.1 and 2 to consider and dispose of the petitioner's representation, dated 28-04-2015, on merits and in accordance with law, after taking into consideration the order of this Court in W.P.No.23712 of 2008 dated 26-09-2008, confirmed in appeal and special leave petition, as well as the proceedings of the first respondent, dated 13-01-2015

within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken to the writ petitioner.

6. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

glp
To

- 1 The Director of Collegiate Education
College Road- Chennai-600 006.
- 2 The Joint Director of Collegiate Education
Tirunelveli Region
Tirunelveli-627 001.
- 3 The Secretary
Scott Christian college
Nagercoil
Kanyakumari District-629 003

+1 cc to M/s.A.V.Bharathi, Advocate, sr.40219
+1 cc to Government Pleader, sr.40430.

rv(co)
kra(21/08)

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