

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.11.2015

Coram :

The Hon'ble Mr.Justice K.KALYANASUNDARAM

W.P.No.34846 of 2015

G.solomon Soundararaj

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Petitioner

vs

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

2.The Joint Director of Collegiate Education,
Thirunelveli Region,
Thirunelveli - 627 001.

3.The Correspondent,
Neasmony Memorial Christian College,
Marthandam,
Kanyakumari District - 629 165.

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Respondents

Writ Petition is filed under Article 226 of the Constitution of India for issue of writ of certiorarified mandamus calling for the records of the respondents, especially the 1st respondent relating to his proceedings made in Na.Ka.No.29566/F2/2013, dated 07.07.2015 and quash the same as null and void, illegal and invalid and consequently direct the respondents, especially 1st and 2nd respondents to approve the petitioner's initial appointment as sweeper fixing his seniority with effect from 23.12.1997 considering the nature of the said appointment in clear approved and promotion vacancy according to sanction for all monetary and service benefits with effect from 23.12.1997 in the light of retrospective approval and regularisation of the appointment made to Thiru K.Paulian and Thiru N.Robin Jabanese as sweepers with retrospective effect from 01.10.1996 with monetary benefits.

For Petitioner : Mr.A.Amalraj

For Respondents : Mr.S.Sundararajan
Govt. Advocate for R1 & R2
Mr.Issac Mohanlal for R3

O R D E R

By consent, the writ petition is taken up for disposal at the admission stage itself.

2. The case of the petitioner is he was appointed as 'watchman' under the 3rd respondent college and subsequently he was promoted as 'sweeper' on 23.12.1997 in the promotion vacancy of Thiru S.Jayasingh w.e.f. 01.10.1997 as per Minutes of the College Governing Board held on 19.12.1997. Similarly, Thiru K.Paulian and Thiru N.Robin Jebanese were appointed as 'sweepers' under Management Quota with effect from 01.10.1996. and 01.11.1996 in the promotion vacancies of Thiru R.Festus and Thiru C.Bright Sam respectively.

3. The petitioner would further state that the respondents 1 and 2 approved the names of Thiru K.Paulian and Thiru N.Robin Jebanese from the date of their initial appointment. Further, the 2nd respondent has approved subsequent promotion of Thiru K.Paulian and Thiru N.Robin Jebanese as laboratory assistants w.e.f. 13.06.2007 leaving the petitioner alone in a unjust manner without assigning any reasons therefor. Therefore, the petitioner made request for the approval of his initial appointment as sweeper on par with Thiru K.Paulian and Thiru N.Robin Jebanese by way of representation dated 07.01.2015, 07.02.2015 and 07.03.2015. However, the 1st respondent has passed the impugned order dated 07.07.2015 rejecting the claim of the petitioner. Hence, this writ petition.

4. Heard Mr.A.Amalraj, learned counsel for the petitioner, Mr.S.Sundararajan, learned Government Advocate for the first and second respondent and Mr.Issac Mohanlal, learned counsel for the third respondent.

5. The learned counsel for the petitioner would contend that the petitioner was appointed as sweeper by the 3rd respondent alongwith one K.Paulian and N.Robin Jebanese on 23.12.1997. When the 1st respondent has approved the appointment of the said Paulion and Robin Jebanese from the date of appointment, the petitioner's request was rejected on the ground that the proposal was not sent through proper channel and his approval in the category of laboratory assistant was approved only from 13.06.2007.

6. The learned counsel for the 3rd respondent would submit that he is ready to forward the proposal of the petitioner to the 1st respondent for approval of his appointment from the date of his initial appointment, through the 2nd respondent.

7. It is not in dispute that in respect of similarly placed persons, viz. K.Paulian and N.Robin Jebenese, who were appointed on the same date alongwith the petitioner, the 1st respondent has approved their appointment from the date of their initial appointment, but in respect of the petitioner, it was rejected mainly on the ground that he had approached the 1st respondent directly instead of approaching through proper channel. I am of the considered view that the valuable right of the petitioner cannot be taken away by adopting hyper technical view. In such view of the matter, the impugned order is set aside.

8. In the light of the above facts, the 3rd respondent is directed to forward the proposal of the petitioner to the 1st respondent for approval of his appointment from the date of his initial appointment, through the 2nd respondent. On receipt of the same, the 1st respondent is directed to consider the same and pass orders on merits and in accordance with law, within a period of eight weeks therefrom and communicate the decision taken, to the petitioner.

9. With the above directions, this writ petition is disposed of. No costs.

Sd/-

Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

rgr

To

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

2.The Joint Director of Collegiate Education,
Thirunelveli Region, Thirunelveli - 627 001.

3.The Correspondent,
Neasmony Memorial Christian College,
Marthandam, Kanyakumari District - 629 165.

+1 cc to Mr.A.Amalraj, Advocate, sr.63278
+1 cc to Isaac Mohanlal, Advocate, sr.63270
+1 cc to Government Pleader, sr.63221

W.P.No.34846 of 2015

sr co, kra 09.12.2015