

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.No.14482 of 2014 and

MP No.1 of 2014

Dr.S.Jaquilin Goldi

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. By its Secretary,
Higher Education Department,
Fort St. George, Chennai - 9.

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

3.The Joint Director of Collegiate Education,
Tirunelveli Region, Tirunelveli.

4.The Women's Christian College,
Rep. By its Correspondent and Secretary,
Nagercoil,
Kanyakumari District - 629 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus to direct the second respondent to approve the appointment of the petitioner as Assistant Professor in Botany in the fourth respondent College with effect from 20.08.2001 instead of 10.08.2006 with all monitory benefits on the basis of the petitioner's representation dated 06.04.2008 followed by the remainder dated 23.04.2014.

For petitioner : Mr.N.Rajan

For R1 to R3 : Mrs.P.Rajalakshmi, GA

ORDER

By way of filing this writ petition, the petitioner seeks a direction to the second respondent to approve the

appointment of the petitioner as Assistant Professor in Botany in the fourth respondent College with effect from 20.08.2001 instead of 10.08.2006 with all monetary benefits on the basis of her representation dated 06.04.2008 followed by the remainder dated 23.04.2014.

2. According to the petitioner, she initially worked as Substituted Lecturer in Botany between 19.08.1999 and 18.08.2001. Thereafter, she was appointed as Lecturer in Botany by the fourth respondent College in the existing vacancy caused by the retirement of one Mrs.Santhakumari Retnadas, vide its order dated 15.10.2001, with effect from 20.08.2001. It was a sanctioned post. The petitioner has also sent her representation dated 10.06.2002 to the second respondent requesting them to approve her appointment from 20.08.2001. However, without considering the same, the second respondent, by order dated 19.07.2006, has permitted the fourth respondent College to fill the said post. By virtue of such order, the fourth respondent College has once again issued an order of appointment dated 10.08.2006 and thereafter, the third respondent has accorded approval for her appointment only with effect from 10.08.2006.

3. Learned counsel appearing for the petitioner has also relied upon a judgment of this Court in W.A.No.2345 of 2011, dated 05.03.2012, wherein it is held that once the appointment of a person in a sanctioned post is made in accordance with law, no prior permission from the Directorate of Collegiate Education is required. On that basis, he has submitted that since the petitioner was appointed in a sanctioned post, her appointment should be regularised with effect from 20.08.2001, not from 10.08.2006.

4. Learned Government Advocate appearing for the respondents 1 to 3, by filing a detailed counter affidavit, submitted that the respondent department did not accord prior approval to her appointment nor the approval sought for by the College. Thus, the petitioner cannot seek the approval from the date of her appointment and therefore, the second respondent is right in rejecting the claim of the petitioner.

5. Heard both sides.

6. In Government of Tamil Nadu v. Dr.C.Selvaraj (passed in W.A.No.2345 of 2011, dated 05.03.2012), this Court has held that once appointment of a person in a sanctioned post is made in accordance with law, no prior permission from the Directorate of Collegiate Education is required. In the case on hand, it is no doubt true that the petitioner was appointed in a

sanctioned post, however, the respondent department has approved her appointment only with effect from 10.08.2006, not from 20.08.2001 as claimed by the petitioner. It is the contention of the petitioner that she was appointed as Lecturer in Botany by the fourth respondent College in the existing vacancy caused by the retirement of one Mrs.Santhakumari Retnadas. However, the petitioner has not produced any proceedings to the effect that the fourth respondent College has sent a proposal seeking approval of her appointment.

7. Further, it is also relevant to extract the order passed by this Court in W.A.No.2345 of 2011, dated 05.03.2012, wherein it is held thus at paragraph 7:

"7. It is settled that once appointment of a person in a sanctioned post is made in accordance with law, no prior permission from the Directorate of Collegiate Education is required and that he is eligible to get salary. In the case on hand, the issue involved is with regard to the appointment of the first respondent against the sanctioned post. The first respondent having worked from 19.06.1996 within the sanctioned strength of 14, is eligible to get his appointment approved from 19.06.1996 and as such, as rightly held by the learned Single Judge, the authorities ought to have considered the recommendations made by the Management of the School for approval of the first respondent from the date of appointment and there is no justification on the part of the authorities in approving the appointment of the first respondent only from 28.10.1999 along with his juniors. We see no reason to take a different view from that of the learned Single Judge."

8. In the light of the above, the petitioner is directed to submit her representation to the fourth respondent College. requesting approval for her appointment in the post of Lecturer in Botany during 2001 to 2006, within a period of ten days from the date of receipt of a copy of this order. On receipt of such representation, the fourth respondent College is directed to forward the same to the third respondent for approval. Thereafter, the third respondent is directed to consider and dispose of the proposal for appointment of the petitioner, on merits and in accordance with law, and in the light of the views expressed by this Court in its judgment dated

05.03.2012, made in W.A.No.2345 of 2011, as expeditiously as possible.

9. With the above directions, the writ petition stands disposed of. No Costs. M.P.No.1 of 2014 is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

rkm

To

- 1.The Secretary to Government,
Higher Education Department,
Fort St. George, Chennai - 9.
 - 2.The Director of Collegiate Education,
College Road, Chennai - 600 006.
 - 3.The Joint Director of Collegiate Education,
Tirunelveli Region, Tirunelveli.
- 1 cc to Government Pleader, sr.32447
1 cc to M/s.N.Rajan, Advocate, sr.32176

W.P.No.14482 of 2014

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kra 28.06.2016

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