

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.19885 of 2016

D.Uma Rani

.. Petitioner

Vs.

1. The General Secretary and Correspondent,
Guru Nanak College,
Velachery, Chennai-600 042.
 2. The Principal,
Guru Nanak College,
Velacher, Chennai-600 042.
 3. The Director of Collegiate Education,
College Road,
Nungambakkam, Chennai-34.
 4. The Joint Director of Collegiate Education,
Saidapet, Chennai-15.
- .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the first respondent to act upon the proceeding of the third respondent in Moo.Mu.No.46368/F1/2011, dated 21.08.2012 and promote the petitioner to the post of Assistant with effect from the date on which it fell vacant.

For Petitioner : Mr.Mohammed Fayaz Ali
For Respondents : M/s.Iyer and Thoms for RR-1 and 2
Mr.R.Venkatesh,
Govt. Advocate for RR-3 and 4

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Mandamus to direct the first respondent to act upon the proceeding of the third respondent in Moo.Mu.No.46368/F1/2011, dated 21.08.2012 and promote the petitioner to the post of Assistant with effect from the date on which it fell vacant.

2. The petitioner has been working as Junior Assistant in the first respondent-College from 05.04.2010. She has passed DOM and Subordinate Officers Account Test Part-1 and qualified to be appointed to the post of Assistant. As she came to know that there is a vacancy to the post of Assistant in the College, she applied for the same to the second respondent seeking to promote her to the post of Assistant in view of her seniority and qualification. By representation dated 27.10.2014, followed by various letters, dated 01.12.2014, 08.05.2015, 04.11.2015, 06.03.2016 and 13.04.2016, she forwarded her request for appointment to the post of Assistant to the respondents 1 and 2, with a copy marked to the respondents 3 and 4, all of which have not been considered. It is further stated by the petitioner that by proceedings of the third respondent, dated 21.08.2012, a direction had been issued to the Government aided colleges including the first respondent-College to fill up the existing vacancies arising out of death/retirement by way of promotion expeditiously so that the employees are not deprived of the pension and retirement benefits. In spite of the said proceedings, the first respondent has not taken necessary action to fill up the vacancies. Hence, the petitioner has preferred this Writ Petition for the relief stated supra.

3. When the Writ Petition is taken up for consideration, learned counsel for the petitioner submitted that the third respondent has issued general Circular in the form of the said proceedings and forwarded the copies to all the colleges to fill up all the approved vacancies with qualified persons arising out of death/retirement. Hence, learned counsel, by relying upon the said proceedings, prayed for giving a direction to the first respondent to promote the petitioner to the post of Assistant with effect from the date on which it fell vacant.

4. Learned counsel for the respondents 1 and 2, by filing detailed counter affidavit, submitted that there is a vacancy in their college due to sudden demise of one Mr.Rajkumar, Assistant, and the said post is yet to be filled up. The petitioner was not considered for promotion for the reason that her performance as staff and Junior Assistant, is far below the expected levels. She is not a normal recruiter and she has been earlier recruited on compassionate grounds due to her husband's

demise, who was a Lecturer in the college. She has availed of leave on numerous occasions in excess to what she is entitled to, without even getting prior permission/notice to her superiors, for which she was warned and she has also not been performing the job to the satisfaction of the concerned authorities of the College. While she was given the work of scholarships for students and UGC related works, she delayed the process and due to her absence and negligence, the process of scholarships to the students suffered tirades from various educational departments and the scholarships were not sanctioned to the students, which would have resulted in their sufferings for their studies. It is further contended that the College in the year 2011-2012, received Rs.80,000/- from Sri Sultan Chand Endowment Society towards the scholarships for meritorious students, which was not best utilised due to her callous attitude. Further, in respect of sanction of a sum of Rs.12,50,000/- by the UGC, New Delhi to the College, which being minority institution, the petitioner failed to submit proper documents in the audit by Auditor General's Office, which led to the audit objections against the college. Therefore, for these reasons, the learned counsel for the respondents 1 and 2 prayed for dismissal of the Writ Petitions.

5. Heard the learned Government Advocate appearing for the respondents 3 and 4 on the above aspects.

6. Heard both sides and perused the materials available on record.

7. It is the main contention of the learned counsel for the respondents 1 and 2 that the petitioner is not eligible to be appointed to the post of Assistant. This contention is denied by the learned counsel for the petitioner. This Court cannot conduct roving enquiry on the disputed questions of facts. However, considering the submissions made on either side, this Court is not inclined to give any positive direction as sought for by the petitioner to the first respondent-College to promote the petitioner to the post of Assistant. However, being considerate in the matter, this Court finds that as the said representations are pending, appropriate direction could be issued to the respondents to consider the same.

8. Accordingly, the respondents 1 and 2/Secretary-Correspondent/Principal are directed to consider the said representations given by the petitioner on various dates with regard to her request for promotion to the post of Assistant and pass appropriate orders in consultation with the respondents 3 and 4, for appointing her as such in the said post, if she is otherwise found eligible. It is made clear that this Court has

not expressed any opinion on the merits of the claim of the petitioner and it is for the respondents 1 and 2 to decide the same while disposing of such representations. The above exercise shall be completed within a period of two weeks from the date of receipt of a copy of this order.

9. With the above observations and directions, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

cs

Copy to

1. The General Secretary and Correspondent,
Guru Nanak College,
Velachery, Chennai-600 042.
2. The Principal,
Guru Nanak College,
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3. The Director of Collegiate Education,
College Road,
Nungambakkam, Chennai-34.
4. The Joint Director of Collegiate Education,
Saidapet, Chennai-15.

+1cc to Mr.Mohammed Fayazal, Advocate, S.R.No.63435
+1cc to Mr.H. Karthic Seshadri, Advocate, S.R.No.63370
+1cc to the Government Pleader, S.R.No.63302

lrs (CO)
md(21/11/2016)

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