

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2016

CORAM :

THE HONOURABLE Mr.JUSTICE R.SUBBIAH

W.P.No.25587 of 2016

Mr.S.Arul Kumar

... Petitioner

Vs.

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

... Respondent

Writ Petition has been filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondent to approve the petitioner's appointment as Steno Typist Grade III in the Scott Christian College, Nagercoil in the sanctioned Vacancy caused by the Transfer of Mr.T.Smith with effect from 06.06.2005 to 21.06.2007 in the light of approval given to similarly placed non-teaching staff like Mr.P.Jenson Jones vide Na.Ka.No.39744/F2/2014, dated 03.02.2015, Mr.M.Stephen and Mr.Cithirairaj Gnanadhasan vide Na.Ka.No.59741/F2/2014, dated 13.01.2015 in W.A.No.99 of 2009 dated 24.04.2009 and SLP.No.27331 of 2013, dated 04.10.2013, with all monetary benefits and other attendant benefits with effect from 06.06.2005 to 21.06.2007 based on the review petition given by the petitioner dated 08.07.2015.

For Petitioner : Mr.E.Martin Jayakumar

For Respondents : Mr.K.Dhananjayan, Spl GP.

ORDER

This Writ Petition has been filed by the petitioner, praying for issuance of a Writ of Mandamus, directing the respondent to approve the petitioner's appointment as Steno Typist Grade-III in the Scott Christian College, Nagercoil in the sanctioned Vacancy caused by the Transfer of Mr.T.Smith with effect from 06.06.2005 to 21.06.2007 in the light of approval given to similarly placed non-teaching staff like Mr.P.Jenson Jones vide Na.Ka.No.39744/F2/2014, dated 03.02.2015, Mr.M.Stephen and Mr.Cithirairaj Gnanadhasan vide Na.Ka.No.59741/F2/2014, dated 13.01.2015 in W.A.No.99 of 2009 dated 24.04.2009 and S.L.P.No.27331 of 2013, dated 04.10.2013, with all monetary

benefits and other attendant benefits, with effect from 06.06.2005 to 21.06.2007, based on the review petition given by the petitioner dated 08.07.2015.

2. In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows_

2-1. The petitioner was selected and appointed as Steno Typist Grade-III in Scott Christian College, Nagercoil in the sanctioned vacancy caused by the Transfer of Mr.T.Smith with effect from 06.06.2005 to 21.06.2007. The said appointment order dated 06.06.2005 was issued by the Secretary of the Scott Christian College, Nagercoil. The said appointment was made by the Management of the Scott Christian College, Nagercoil and the appointment was given only on the availability of sanctioned post; but, the petitioner received no salary from 06.06.2005 to 21.06.2007. Subsequently, the post was approved by the respondent and order to that effect was issued by the Joint Director of Collegiate Education, Tirunelveli in his proceedings vide Ne.Mu.No.8990/E1/2007, dated 12.12.2007 with effect from 22.06.2007.

2-2. At the time of appointment as Steno Typist Grade-III in the year 2005, the petitioner was qualified and possessed Tamil & English Type Writing-Jr & Sr, Short Hand Tamil-Jr & Sr, English-Jr. and B.A. in Economics. By the proceedings of the respondent, bearing Na.Ka.No.10654/E3/86, dated 18.05.1987, permission has been granted to fill up the vacancies for non-teaching staff, revision of grant in aid for payment of salaries and fixation of staff. In and by the said proceedings Mr.T.Smith was permitted to work in the sanctioned non-teaching post as Steno Typist Grade III.

2-3. The petitioner occupied the senior most Management non-teaching staff post. The petitioner was absorbed and appointed in the sanctioned non-teaching post as Steno Typist Grade III on 06.06.2005 in the vacancy caused by the Transfer of the above said Mr.T.Smith which arose on 04.11.2004, from the post of Steno Typist. Since the number of students increased every academic year and there was corresponding workload pressure, in order to protect the interest and welfare of the students the College being a Minority Institution considering the necessity and the Steno Typist Grade III post being a sanctioned post from the year 1987 appoint the petitioner as Steno Typist Grade III on 06.06.2005. Further, the management of Scott Christian College, Nagercoil is duly entitled to make such appointment, in case of inevitable circumstances without prior approval of the respondent, since the same can be sanctified at a later date, if the post is a sanctioned post.

2-4.It is further stated that similar non-teaching staffs by name Mr.P.Jenson Jones, Mr.M.Stephen and Mr.Cithirairaj Gnanadhasan, who were working as Library Assistant & Record Clerk respectively in the Scott Christian College, Nagercoil, whose posts were not approved from the date of appointment, had filed writ petitions bearing Nos.29716 & 29717 of 2014, which were disposed of by this Court by order dated 14.11.2014. Pursuant to the order passed by this Court, the respondent has issued orders bearing Na.Ka.No.39744/F2/2014, dated 03.02.2015 and Na.Ka.No.59741/F2/2014, dated 13.01.2015, approving the posts of Mr.P.Jenson Jones, Mr.M.Stephen and Mr.Cithirairaj Gnanadhasan from the date of their initial appointments dated 21.07.1986, 30.10.2010 & 01.07.2010.

2-5.Further, insofar as the minority institutions are concerned, for approval of the appointments made by the College, the authorities have to see only whether the appointee is having necessary qualification for the post. In the instant case, the petitioner is having all the requisite qualification for appointment to the post of Steno Typist Grade-III. Moreover, the post is sanctioned post and the petitioner is entitled for approval and payment of salary with effect from 06.06.2005 to 21.06.2007.

2-6.But, the petitioner's services were approved in the sanctioned post with effect from 22.06.2007 only. Hence, the petitioner made a representation through his college Secretary dated 18.06.2014 to the respondent to approve the post of the petitioner from the date of initial appointment. But, the respondent rejected the request of the petitioner stating that the Scott Christian College has not obtained prior permission to fill the above mentioned post. It is further stated by the petitioner that when similarly placed persons are given approval and regularization with retrospective effect, the petitioner alone is singled out without approval and regularization amounts in violation of Article 14 Constitution of India. Hence, the petitioner has come forward with the present writ petition.

3.Heard the learned counsel for the petitioner as well as the learned Special Government Pleader appearing for the respondent and perused the materials available on record.

4.Considering the limited scope of the prayer sought for by the petitioner and taking note of the submissions made on either side, without expressing any opinion on the merits of the claim made by the petitioner, this Court directs the respondent to consider the review petition given by the petitioner dated 08.07.2015 with regard to grating approval to the petitioner's appointment as Steno Typist Grade-III in the Scott Christian College, Nagercoil in the sanctioned vacancy caused by the

Transfer of Mr.T.Smith with effect from 06.06.2005 to 21.06.2007 in the light of approval given to similarly placed non-teaching staff like Mr.P.Jenson Jones vide Na.Ka.No.39744/F2/2014, dated 03.02.2015, Mr.M.Stephen and Mr.Cithirairaj Gnanadhasan vide Na.Ka.No.59741/F2/2014, dated 13.01.2015, with all monetary benefits and other attendant benefits with effect from 06.06.2005 to 21.06.2007, and to pass appropriate orders, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

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

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

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

+lcc to Mr.E.Martin Jayakumar, Advocate Sr.67588
+lcc to the Government Pleader Sr.68351

W.P.No.25587 of 2016

sk[co]
srg 14/12/2016

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