

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.31365 of 2016

Dr.S.E.Joema

... Petitioner

vs.

The Director of Collegiate Education,
College Road, Chennai-6.

... Respondent

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondent to approve the petitioner's appointment as Assistant Professor in Physics in the Nesamony Memorial Christian College, Marthandam, in the sanctioned retirement vacancy of Dr.S.Dawn Dharma Roy with effect from 27.2.2015 in the light of approval given by the respondent to the similarly placed persons like Dr.N.Santhy in W.P.No.35715 of 2015 dated 16.11.2015 in Na.Ka.No.50256/F2/2015 dated 2.3.2016 and P.Ravichandran in order passed in W.A.No.2318 of 2011 dated 11.10.2013 with monetary and all other attendant and service benefits based on the representation given by the petitioner dated 14.12.2015.

For Petitioner : Mr.E.Martin Jeyakumar
For Respondents : Mr.M.S.Ramesh,
Addl. Govt. Pleader

ORDER

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

2. The petitioner has come up with the present writ petition for a mandamus, directing the respondent to approve her appointment as Assistant Professor in Physics in the Nesamony Memorial Christian College, Marthandam, in the sanctioned retirement vacancy of Dr.S.Dawn Dharma Roy with effect from

27.2.2015 in the light of approval given by the respondent to the similarly placed persons like Dr.N.Santhy in W.P.No.35715 of 2015 dated 16.11.2015 in Na.Ka.No.50256/F2/2015 dated 2.3.2016 and P.Ravichandran in the order passed in W.A.No.2318 of 2011 dated 11.10.2013 with monetary and all other attendant and service benefits based on her representation dated 14.12.2015.

3. It is the case of the petitioner that she has possessed the qualification of M.Sc., M.Phil., Ph.D. Originally, she was appointed in the Self-Finance Scheme in Scott Christian College, Nagercoil on 15.6.2005. Thereafter, she was transferred to the sister concern viz., Nesamony Memorial Christian College, Marthandam, and has been appointed as Assistant Professor in Physics with effect from 27.2.2015 in the sanctioned retirement vacancy and she has not been paid salary from the management funds. Thereafter, by the proceedings of the Director of Collegiate Education, Chennai-6, dated 28.10.1999, permission has been granted to fill up the vacancies that arose in the vacant post of the year 1999-2000 on or before 31.3.2000. In the said proceedings, the number of sanctioned post of Assistant Professor in Physics for the year 1999-2000 has been set out as 13 and the petitioner has been appointed with effect from 27.2.2015 in the 13th sanctioned post. The Nesamony Memorial Christian College has sent a communication about the workload to the Joint Director of Collegiate Education, Tirunelveli and the respondent herein and sought permission to fill up the retirement of vacancies of the Assistant Professors, which arose upto 2015. There is no provision either in the Tamil Nadu Private Colleges (Regulation) Act, 1976 or in the Tamil Nadu Private Colleges (Regulation) Rules, 1976, that prior permission has to be obtained from the Director of Collegiate Education before filling up a vacant sanctioned post. The petitioner has been working without salary from the date of her appointment in the retirement vacancy arising out of a sanctioned post. The services of the similarly placed persons like that of the petitioner were approved by the respondent as per the direction of this Court dated 16.11.2015 made in W.P.No.35715 of 2015 and as per judgment of the Division Bench of this Court dated 11.10.2013 made in W.A.No.2318 of 2011. In this regard, the petitioner sent a representation dated 14.12.2015 to the respondent requesting him to approve her appointment. But, the same was not considered so far. Hence, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

4. I have heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader, who has taken notice on behalf of the respondent.

5. Considering the facts and circumstances of the case and considering the submissions made on either side, without going into the merits of the claim made by the petitioner, this Court directs the respondent to consider the representation of the petitioner dated 14.12.2015 seeking approval of her appointment as Assistant Professor in Physics in the Nesamony Memorial Christian College, Marthandam, in the sanctioned retirement vacancy of Dr.S.Dawn Dharma Roy with effect from 27.2.2015, and pass appropriate orders, on merits and in accordance with law and also in the light of the direction of this Court dated 16.11.2015 made in W.P.No.35715 of 2015 and in the light of the judgment of the Division Bench of this Court dated 11.10.2013 made in W.A.No.2318 of 2011, within a period of four weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

sbi

To

The Director of Collegiate Education,
College Road, Chennai-6.

+1 CC to Mr. E. Martin Jayakumar , Advocate Sr.No.51016

+1 CC to Government Pleader, Sr.No.51330

W.P.No.31365 of 2016

MG (CO)

MD : 15/09/2016

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