

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2016

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THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.32304 of 2016

Dr.A.S.Jebamalar

... Petitioner

Vs.

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

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondent herein 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.J.Thampi Thanka Kumaran with effect from 20.06.2016 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 02.03.2016 with monetary and all other attendant and service benefits based on the representation given by the petitioner dated 04.07.2016.

For Petitioner	: M/s.C.R.Rose Radhi Jijo
For Respondent	: Mr.M.S.Ramesh Additional Government Pleader

ORDER

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

2.The petitioner has come up with the present writ petition for a Mandamus, directing the respondent herein 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.J.Thampi Thanka Kumaran with effect from 20.06.2016 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 02.03.2016 with monetary and all other attendant and service benefits based on the representation given by the petitioner dated 04.07.2016.

3.It is the case of the petitioner that she is a Post Graduate in Physics possessing the qualification of M.Sc., M.Phil., Ph.D. Originally, she was appointed in the Self-Finance Scheme in the Women's Christian College on 06.07.2005 and subsequently, she was appointed in the sister concern viz., Nesamony Memorial Christian College, Marthandam, as Assistant Professor in Physics with effect from 20.06.2016 in the sanctioned retirement vacancy of Dr.J.Thampi

Thanka Kumaran and she has not been paid salary from the management funds.

4.It is the further case of the petitioner that by the proceedings of the Director of Collegiate Education, Chennai, 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 31.03.2000. In the said proceedings, the number of sanctioned posts 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 20.06.2016 in the 12th sanctioned post. The Nesamony Memorial Christian College has sent a communication about the workload to the Joint Director of Collegiate Education, Marthandam and also communicated the same, to the respondent herein and sought permission to fill up the retirement of vacancies of the Assistant Professors, which arose in the year 2016.

5.It is the further case of the petitioner that 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. In this regard, the petitioner sent a representation dated 04.07.2016 to the respondent requesting 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.

6.I have heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader who takes notice for the respondent.

7.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 04.07.2016 seeking approval of her appointment as Assistant

Professor in Physics in the Nesamony Memorial Christian College, Marthandam, in the sanctioned retirement vacancy of Dr.J.Thampi Thanka Kumaran with effect from 20.06.2016, 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.

8.The writ petition is disposed of accordingly. No costs.

16.09.2016

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Index: Yes/ No
Internet: Yes/ No

To

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

R.SUBBIAH,J.
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