

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2016

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THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.32964 of 2016

Mr.A.Lourdusamy

... 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 and regularize the petitioner's appointment as Assistant Professor in Mathematics in the St.Xavier's College, Palayamkottai, in the sanctioned Transferred vacancy of Fr.A.Antonysamy S.J. with effect from 02.07.1990 to 06.03.1991 in the light of the approval given by the respondent to the similarly placed persons Proceedings in M.S.No.441 Higher Education Department 18.08.1997 and Na.Ka.No.4593/F2/2016 dated 15.04.2016, Na.Ka.No.19837/F2/2007 dated 14.03.2014 and Na.Ka.No.33733/F2/ 2005 dated 01.09.2014 in W.P.No.17368 of 2005 dated 29.06.2005, in W.A.Nos.140, 811 of 2006 and 809 of 2007, dated 21.10.2010 and in SLP.Nos.19526 of 19528 of 2013 dated 29.11.2013 with monetary and service and all other benefits for the said period based on the representation dated 15.02.2016 given by the petitioner.

For Petitioner : Mr.E.Martin Jaya Kumar
For Respondent : Mr.C.Jagadish
Special Government Pleader

O R D E R

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 and regularize the petitioner's appointment as Assistant Professor in Mathematics in the St.Xavier's College, Palayamkottai, in the sanctioned Transferred vacancy of Fr.A.Antonysamy S.J. with effect from 02.07.1990 to 06.03.1991 in the light of the approval given by the respondent to the similarly placed persons Proceedings in M.S.No.441 Higher Education Department 18.08.1997 and Na.Ka.No.4593/F2/2016 dated 15.04.2016, Na.Ka.No.19837/F2/2007 dated 14.03.2014 and Na.Ka.No.33733/F2/ 2005 dated 01.09.2014 in W.P.No.17368 of 2005 dated 29.06.2005, in W.A.Nos.140, 811 of 2006 and 809 of 2007, dated 21.10.2010 and in SLP.Nos.19526 of 19528 of 2013 dated 29.11.2013 with monetary and service and all other benefits for the said period based on the representation dated 15.02.2016 given by the petitioner.

3.It is the case of the petitioner that he is a Post Graduate in Mathematics possessing the qualification of M.Sc., M.Phil. Originally, he was appointed as Assistant Professor in Mathematics in St.Xavier's College, Palayamkottai, with effect from 02.07.1990, in the sanctioned Transferred vacancy of Fr.A.Antony S.J. and he has not been paid salary from the management funds. Subsequently, the post was approved by the respondent vide proceedings dated 06.05.1992, with effect from 07.03.1991.

4.It is the further case of the petitioner that by the proceedings of the Director of Collegiate Education, Chennai, dated 07.03.1991, permission has been granted to fill up the vacancies that arose in the vacant post of the year 1990-1991. In the said proceedings, the number of sanctioned posts of Assistant Professor in Mathematics for the year 1990-1991 has been set out as 11 and the petitioner has been appointed with effect from 02.07.1990 in the 10th sanctioned post.

5.The St.Xavier's College, Palayamkottai has sent a communication about the workload to the respondent herein and sought approval of the transferred of vacancies of the Assistant

Professors, which arose in the year 1990, including the transferred vacancy of Fr.A.Antony samy S.J. which arose on 06.06.1990.

6.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. Therefore, it is not necessary to obtain prior approval from the Director of Collegiate Education in respect of filling up vacancy arising out of an already sanctioned post. The petitioner has been working without salary from the date of his appointment in the retirement vacancy arising out of a sanctioned post. In this regard, the petitioner made several representations to the respondent requesting to approve his appointment from the initial date of appointment and the last of such representation is dated 15.02.2016. But, they were 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.

7.The learned counsel appearing for the petitioner, in support of his contentions, also relied upon the order of this Court dated 12.07.2016 made in W.P.No.23718 of 2016 (Dr.A.Jepa Malar Vs.The

Director of Collegiate Education, College Road, Chennai – 600 006.), wherein, this Court relying upon the order passed by this Court in W.P.No.3311 of 2016 dated 22.02.2016, directed the respondent to consider and dispose of the petitioner's representation for regularizing the service from the date of appointment and to pay the salary and other applicable benefits for the said period within a time frame.

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

9.Following the earlier orders passed by this Court as stated supra and in the light of the approval granted by the respondent in similar such circumstances, this Court is of the view that the respondent ought to have considered the case of the petitioner from the initial date of his appointment and paid his salary with all other benefits.

10.In view of the above, this Court directs the respondent to consider the representation of the petitioner dated 15.02.2016 seeking to approve and regularize the petitioner's appointment as Assistant Professor in Mathematics in the St.Xavier's College,

Palayamkottai, in the sanctioned retirement vacancy of Fr.A.Antonysamy S.J. with effect from 02.07.1990 to 06.03.1991, based on the approval given by the respondent to the similarly placed persons in M.S.No.441 Higher Education Department 18.08.1997 and Na.Ka.No.4593/F2/2016 dated 15.04.2016, Na.Ka.No.19837/F2/2007 dated 14.03.2014 and Na.Ka.No.33733/F2/ 2005 dated 01.09.2014 in W.P.No.17368 of 2005 dated 29.06.2005, in W.A.Nos.140, 811 of 2006 and 809 of 2007, dated 21.10.2010 and in SLP.Nos.19526 of 19528 of 2013 dated 29.11.2013 and pass appropriate orders with regard to the payment of his salary and other applicable benefits for the said period, within a period of six weeks from the date of receipt of a copy of this order, on merits and in accordance with law.

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

21.09.2016

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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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