

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.35310 of 2016

R.Gnanadhas

.. 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 Office Assistant in the Nesamony Memorial Christian College, Marthandam, in the Sanctioned Vacancy caused by the Retirement of Mr.I.Sylas with effect from 6.4.1998 in the light of approval given to similarly placed non - teaching staffs Mr.M.Stephen and Mr.Chithirairaj Gnanadhasan vide Na.Ka. No. 59741/F2/ 2014 dated 13.01.2015 with all monetary benefits based on this Honourable High Court and Supreme Court orders passed in W.P. No. 23712 of 2008 dated 26.9.2008, W.A.No.99 of 2009 dated 24.4.2009 and SLP No.27331 of 2013 dated 4.10.2013 with monetary benefits, Seniority in service and other attendant benefits with effect from 06.04.1998 based on the representation given by the petitioner dated 7.6.2016.

For Petitioner :
For Respondent :

Mr.E.Martin Jayakumar
Mr.N.Srinivasan,
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 his appointment as Office Assistant in the Nesamony Memorial Christian College, Marthandam, in the Sanctioned Vacancy caused by the Retirement of one I.Sylas with effect from 6.4.1998 in the light of approval given to similarly placed non - teaching staffs M.Stephen and Chithirairaj Gnanadhasan vide Na.Ka. No. 59741/F2/ 2014 dated 13.01.2015 with all monetary benefits based on the orders passed by this Court as well as by the Hon'ble Supreme Court orders in W.P. No. 23712 of 2008 dated 26.9.2008, W.A.No.99 of 2009 dated 24.4.2009 and SLP No.27331 of 2013 dated 4.10.2013 with monetary benefits, Seniority in service and other attendant benefits with effect from 6.4.1998 based on the representation given by him dated 7.6.2016.

3. The case of the petitioner, in brief, is as follows:-

(a) The petitioner was appointed as Office Assistant in Nesamony Memorial Christian College, Marthandam, in the sanctioned vacancy caused by the retirement of one I.Sylas with effect from 6.4.1998. Though the said appointment was made only on the availability of sanctioned post, he has not been paid salary from 6.4.1998 till date. At the time of appointment as Office Assistant in 1998, he had passed X Standard Examination. By the proceedings of the respondent dated 8.1.1980, 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 and grant were given that arose in the year 1979-80. In and by the said proceedings, one I.Sylas was permitted to work in the sanctioned non-teaching post as Office Assistant. The petitioner occupied the senior most Management non-teaching staff post, caused by the retirement of the said I.Sylas.

(b) The post of Office Assistant being a sanctioned post from the year 1979 in the Nesamony Memorial Christian College and the same was approved and grant was also given by the respondent from 1979. However, his service was not approved in the sanctioned post with effect from 6.4.1998. In this regard, the petitioner sent a representation dated 7.6.2016 to the respondent seeking approval of his appointment as Office Assistant in Nesamony Memorial Christian College with effect from 6.4.1998. But, the respondent neither considered nor rejected his representation till date. Hence, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

4. Today, when the matter was taken up for consideration, learned counsel appearing for the petitioner submitted that the similarly placed persons like that of the petitioner by name M.Stephen and Cithirairaj Gnanadhasan, who were working as Library Assistant and Record Clerk respectively, in the Scott Christian College, Nagercoil, whose posts were not approved from the date of appointment, filed writ petitions before this Court in W.P.Nos.29716 and 29717 of 2014, which were disposed by this Court on 14.11.2014. Based on the said order, the respondent issued an order dated 13.1.2015 by approving the posts of M.Stephen and Cithirairaj Gnanadhasan from the date of their initial appointment. Hence, the petitioner is also entitled for the similar relief.

5. I have also heard the learned Additional Government Pleader, who has taken notice on behalf of the respondent.

6. Considering the facts and circumstances of the case and considering the submissions made on either side, without going into the merits of the claim projected by the petitioner, this Court directs the petitioner to send a copy representation dated 7.6.2016 along with a copy of this order to the respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the respondent is directed to consider the said representation seeking approval of his appointment as Office Assistant in Nesamony Memorial Christian College with effect from 6.4.1998 and pass appropriate orders, on merits and in accordance with law and in the light of approval given to similarly placed non - teaching staffs M.Stephen and Chithirairaj Gnanadhasan vide Na.Ka. No. 59741/F2/2014 dated 13.01.2015 and also based on the orders passed by this Court as well as by the Hon'ble Supreme Court orders in W.P. No. 23712 of 2008 dated 26.9.2008, W.A.No.99 of 2009 dated 24.4.2009 and SLP No.27331 of 2013 dated 4.10.2013, within a period of six weeks thereafter. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sbi

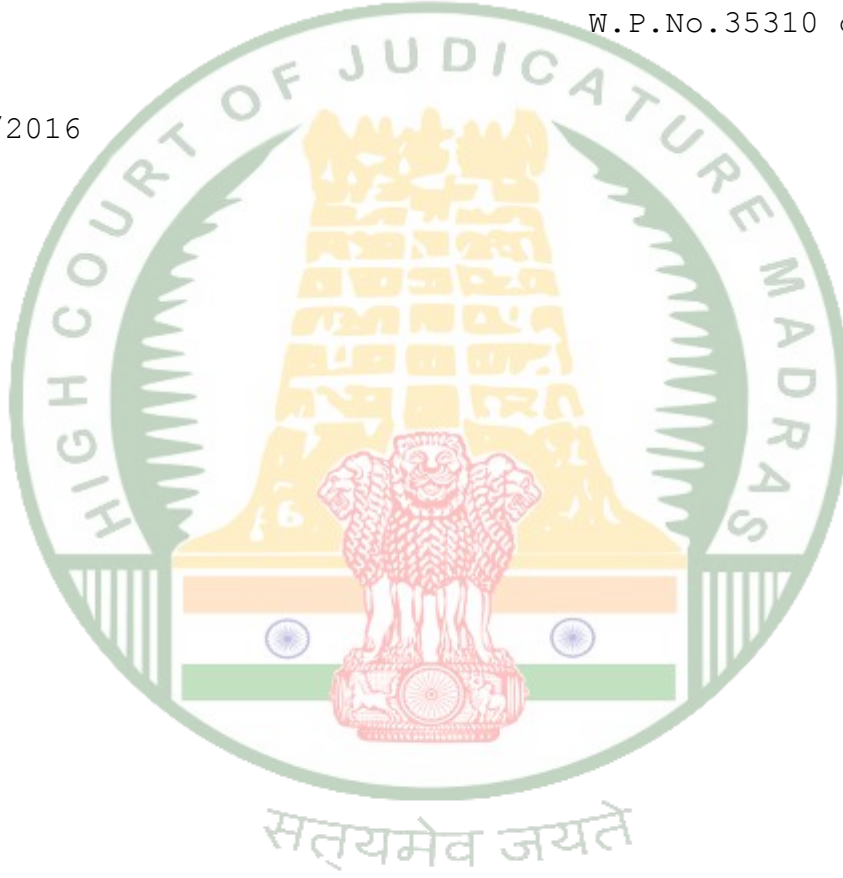
To

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

+1 CC to M/s. E. Martin Jeyakumar, Advocate Sr.No.57370
+1 CC to Govt., Pleader, Sr.No.57526

W.P.No.35310 of 2016

MD : 3/11/2016



WEB COPY