

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.40615 of 2016

Mr.C.Paul Raj

... Petitioner

vs.

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

2. The Secretary-cum-Correspondent,
Nesamony Memorial Christian College,
Marthandam,
Kanyakumari.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the first respondent to approve the petitioner's appointment as Office Assistant in Nesamony Memorial Christian College, Marthandam in the sanctioned vacancy caused by the retirement of Mr.K.Gnanamuthu with effect from 01.11.2000 to 13.08.2009 in the light of approval given to similarly placed non-teaching staffs Mr.Palayyan and Mr.Robin Jabanese vide Na.Ka.No.52029/F2/2013 dated 02.04.2014 and Na.Ka.No.52028/F2/2013 dated 21.08.2014 with monetary benefits and other attendant benefits with effect from 01.11.2000 to 13.08.2009 based on the representation given by the petitioner dated 21.04.2016.

For Petitioner : Mr.C.R.Rose, Radhi Juo

For Respondents : Mr.K.Dhanajayan, Spl.GP-R1
Mr.S.bharathiraja - R2

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 Writ of Mandamus, directing the respondent to approve the petitioner's appointment as a Office Assistant in Nesamony Memorial Christian College, Marthandam with monetary benefits and other attendant benefits based on the representation given by the petitioner dated 21.04.2016.

3. It is the case of the petitioner that he was appointed as Sweeper on 19.09.1998 and subsequently he was promoted as a Office Assistant in Nesamony Memorial Christian College, Marthandam in the sanctioned vacancy caused by the retirement of K.Gnanamuthu, with effect from 01.11.2000. Though his services were approved in the sanctioned post w.e.f 01.11.2000 to 13.08.2009, he has not paid salary for that period. In and by the proceedings of the respondent in Rc.No.1185/79 dated 08.01.1980 permission has been granted to fill up the vacancies for non teaching staff, the said K.Gnanamuthu was permitted to work in the sanctioned non-teaching post as Office Assistant.

4. The post of Office Assistant, being a sanctioned post, from the year 1979 in the Nesamony Memorial Christian College and the same was also approved. The Management of Nesamony Memorial Christian College, Marthandam 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. It is the further case of the petitioner that similarly placed non-teaching staffs by name Mr.Paulian and Robin Jebanese, who were working as sweeper in the Nesamony Memorial Christian College, Marthandam, whose posts were approved by the respondent vide Na.Ka.Ka.No.52029/F2/2013 dated 02.04.2014 and Na.Ka.No.52028/F2/2013 dated 21.08.2014.

5. The petitioner has given representation dated 21.04.2016 to the Director of Collegiate Education, first respondent through the College seeking to approve and regularize the post of the petitioner. But, no action has been taken to do so. Though petitioner made representation dated 21.04.2016, to the respondent for approval of his appointment as Office Assistant with effect from 01.11.2000 to 13.08.2009, the first respondent neither considered nor rejected his representation till date. Hence, the petitioner has come forward with the present petition.

6. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court directs the respondent to consider the representation of the petitioner dated 21.04.2016 seeking to approve and regularize the petitioner's appointment as an Office Assistant in Nesamony Memorial Christian College, Marthandam, in the sanctioned retirement vacancy of Mr.K.Gnanamuthu, with effect from 01.11.2000 to 13.08.2009, based on the approval given by the respondent to the similarly placed persons in Na.Ka.Ka.No.52029/F2/2013 dated 02.04.2014 and Na.Ka.No.52028/F2/2013 dated 21.08.2014 and pass appropriate orders with regard to the payment of his salary and other

applicable benefits for the said period, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

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

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

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

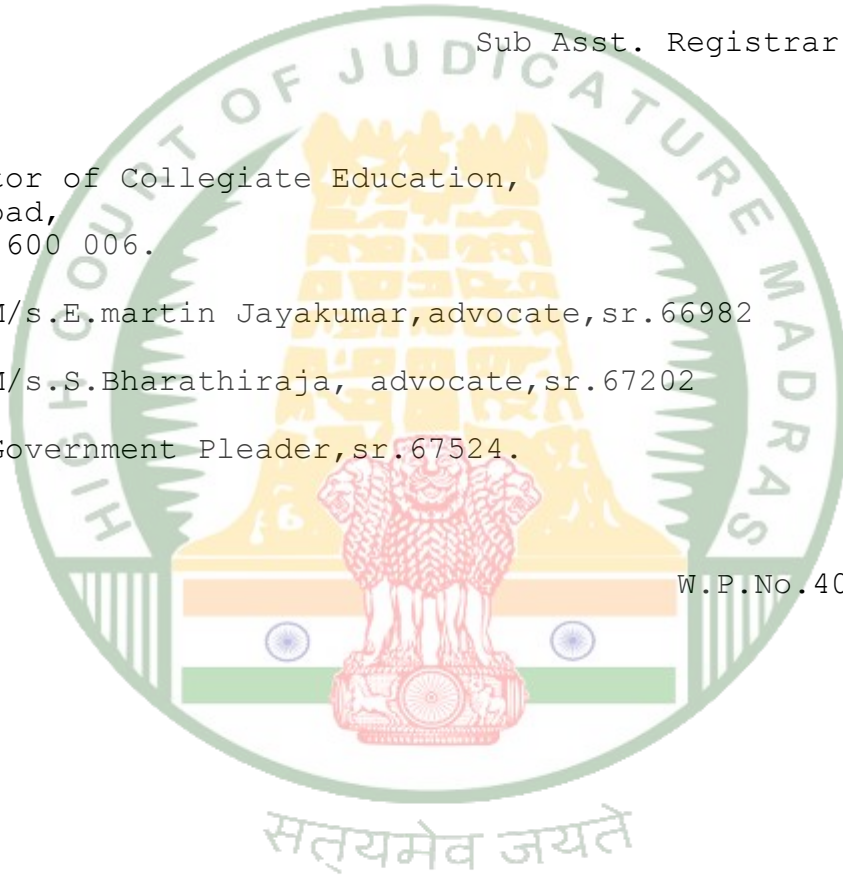
+1 cc to M/s.E.martin Jayakumar, advocate, sr.66982

+1 cc to M/s.S.Bharathiraja, advocate, sr.67202

+1 cc to Government Pleader, sr.67524.

cnr(co)
krd 15/12

W.P.No.40615 of 2016



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