

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.41878 of 2016

S.Arockiadoss

... Petitioner

Vs.

1.The Principal Secretary to Government of Tamil Nadu,
Higher Education Department (Technical Education),
Fort St. George, Chennai-9.

2.The Commissioner,
Commissioner of Technical Education,
Guindy, Chennai-25.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 1st respondent herein to dispose of the representation made by the petitioner on 12.09.2016 within a stipulated period of time.

For Petitioner : Mr.V.Vijay Shankar

For respondents : Mr.V.Anandhamoorthy, AGP (Edu)

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ORDER

This writ petition has been filed by the petitioner, praying for issuance of a Writ of Mandamus, directing the 1st respondent herein to dispose of the representation made by the petitioner on 12.09.2016, within a stipulated period of time.

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioners as follows_

2-1.On being sponsored by the Employment Exchange, the petitioner was called to attend an interview to the post of Skilled Assistant (Carpentry) to be conducted by the Staff Selection Commission of P.T.Chengalvaraya Naicken Polytechnic College, Vepey, Chennai, a government aided institution. As directed, he appeared before the said committee on 12.08.2013

and came out successful. Since the above said post which was sought to be filled by the management comes within the purview of government, a proposal was sent by the Management for a formal approval on 18.08.2001. Though the proposal was sent by the Management to the 2nd respondent, no effective steps were taken by the 2nd respondent for according approval.

2-2. After completion of due selection process and pending approval by the 2nd respondent, the Government issued a G.O.Ms.No.212 (P & AR Department) dated 29.11.2001, imposing ban on fresh recruitment. As could be seen from the above, though the GO imposing ban on fresh recruitment was issued on 29.11.2001 it could only apply prospectively and the selection made on 12.08.2001 could not be stalled citing the above said GO. In fact, the Management took up the case of the petitioner and two others with the 2nd respondent specifically highlighting the fact that the selections were made much earlier to the imposition of ban by the Government. Because of the dearth of eligible hands, the College Management thought it fit to accommodate the petitioner and the another person viz., Rajamani on contract basis till such time the approval is accorded by the 2nd respondent. Though both petitioner as well as the said Rajamani were discharging the duties to tide over the immediate crisis of shortage of staff, the 2nd respondent had categorically replied to the Management that it is possible to appoint the petitioner and other two persons only after lifting of ban by the Government. Thus, all along, they have been working under the Management on contract basis.

2-3. On 07.02.2006, the Government issued an order vide G.O.Ms.No.14 (P & AR Department), dated 07.02.2006, lifting the ban on fresh appointment. Though the ban was lifted as early as in the year 2006, the 2nd respondent did not accord approval for the petitioner's selection as Skilled Assistant (Carpentry), which was made by a duly constituted Staff Selection Committee.

2-4. It was only in the 2012, i.e., nearly after 11 years from the date of selection and 6 years from the date of lifting of ban, the 2nd respondent thought it fit to act on the proposal sent by the Management. In the process, the 2nd respondent has inturn forwarded a proposal to the Government for granting relaxation of age for appointment to the post of Skilled Assistant (Carpentry). In fact, such a proposal by the 2nd respondent to the Government is not at all required inasmuch as the entire selection process was over well before the imposition of ban by the Government. The Government issued an order in G.O.Ms.No.131, Higher Education (C1) Department, dated 10.07.2012 granting relaxation for the petition and other similarly placed selected candidates as sought for by the Director. Even after issuance of the above said GO, the College Management did not take steps to regularize the service of the

petitioner. Hence, the petitioner had made representation to the College Management seeking regularize of his service. Thereafter, the College Management by its letter dated 14.03.2016 had accepted its mistake and informed that the Management has sought for approval from the 2nd respondent. When the petitioner approached the 2nd respondent, he was informed that the 2nd respondent had inturn sent the proposal to the 1st respondent for necessary action and the same is pending with the 1st respondent. Hence, the petitioner made a representation dated 12.09.2016 to the 1st respondent highlighting the above aspects and sought for necessary action. Since the petitioner's said representation was not considered by the 1st respondent, the petitioner has come forward with the present writ petition.

3. Heard both sides and perused the materials available on record.

4. Considering the limited scope of the prayer sought for in the writ petition, without expressing any opinion on the claim of the petitioner, this Court directs the 1st respondent to consider the representation dated 12.09.2016 given by the petitioner and to pass appropriate orders, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

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

-sd-

Assistant Registrar

//True copy//

Sub Assistant Registrar

ssv

To

1. The Principal Secretary to Government of Tamil Nadu,
Higher Education Department (Technical Education),
Fort St. George, Chennai-9.

2. The Commissioner,
Commissioner of Technical Education,
Guindy, Chennai-25.

C.C. to M/S. V.Vijay Shankar Advocate SR.NO.70823/16

C.C. to The Government Pleader, High Court Madras -104
SR.NO. 71251/16

W.P.No.41878 of 2016

MP (CO)
VS 04.01.2017



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