

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.4594 of 2016

and WMP.No.3954 of 2016

Dr.D.Nidha

.. Petitioner

vs.

- 1.The State of Tamil Nadu
rep by its Secretary,
Higher Education Department,
Fort St.George, Chennai-600 009.
- 2.The Director of Collegiate Education,
College Road,
Chennai-600 006.
- 3.The Joint Director of Collegiate Education,
Tirunelveli Region,
Syed Building,
Sindupoonthurai Road,
Tirunelveli-627 001.
- 4.The Nesamony Memorial Christian College,
rep by its Correspondent and Secretary,
Marthandam
Kanyakumari District-629 165.
- 5.Manonmaniam Sundaranar University
Rep by its Registrar,
Abishekapatti, Tirunelveli-627 012.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the second respondent to approve the appointment of the petitioner as Associate Professor of Mathematics in the 4th respondent College, with effect from 04.08.2015 on the basis of her representation dated 12.12.2015 with all monetary benefits.

For Petitioner : M/s.N.Rajan

For Respondents : Mr.A.Zakir Hussain,
Government Advocate for R1 to R3

Mr.S.Bharathirajan for R4
Mr.B.Vishnu Chellaiah
for M/s.Ajmal Associates for R5

O R D E R

This Writ Petition has been filed praying for issuance of a Writ of Mandamus directing the second respondent to approve the appointment of the petitioner as Associate Professor of Mathematics in the fourth respondent College, with effect from 04.08.2015 on the basis of her representation dated 12.12.2015 with all monetary benefits.

2. The petitioner had obtained B.Sc. in Mathematics from Bharathiyar University, Coimbatore in the year 2005 with 80.26% marks and obtained M.Sc. in the same University in April 2007 with distinction. Thereafter, the petitioner passed M.Phil., course in December 2008 in the same University and obtained Ph.D., in Mathematics from Manonmaniyam Sundaranar University in January 2014 and she is fully qualified to hold the post of Assistant Professor of Mathematics as per the norms prescribed by the University Grants Commission. The petitioner was appointed as Assistant Professor of Mathematics in the fourth respondent College, a minority institution, by order dated 04.08.2015 and she was appointed against the vacancy caused on the retirement of the regular of an incumbent by name Mr. Ananchilin Sins Jeeve. The sanctioned strength of lecturers permitted to be appointed by the fourth respondent college in the Department of Mathematics is fixed at 10 as per the proceedings of the second respondent vide Pa.Mu.No.45175/F4/99 dated 28.10.1999 and the petitioner was appointed in a regular vacancy within the sanctioned strength of 10 lecturers and therefore, her appointment is bound to be approved by the second respondent. The fourth respondent college has sent a proposal to the fifth respondent University seeking approval of petitioner's qualification and however the fifth respondent has returned the proposal of the fourth respondent college by stating that unless the petitioner's appointment is approved, the University will not entertain the request for approval of her qualification. The petitioner, in this regard, has sent a representation dated 12.12.2015 to the second respondent seeking to approve her appointment with effect from 04.08.2015 with all monetary benefits and since no action was taken, the petitioner has come forward with this writ petition .

3. When the matter is taken up for consideration, the learned counsel appearing for the petitioner submitted that since the petitioner was appointment in the sanctioned post, there is no need to get prior approval from the respondents and also relied on a Division Bench Judgment of this Court in W.A.No.2656 of 2004, wherein in similar case, direction was given to the respondents to consider the case of the petitioner's therein for approval of appointment and prays for similar relief.

4. Heard the submissions of Mr.A.Zakir Hussain, learned Government Advocate appearing for the respondents 1 to 3, Mr.S.Bharathiraja, learned counsel appearing for the fourth

respondent, Mr.B.Vishnu Chellaiah, leaned counsel appearing for the fifth respondent and also perused the materials placed before it.

5. In the light of Division Bench Judgment of this Court in W.A.No.2656 of 2004, this Writ Petition is disposed of and the petitioner is permitted to give a fresh copy of the representation along with this order to the second respondent within a period of two weeks from the date of receipt of a copy of this order and the second respondent, on receipt of the same, is directed to consider and pass appropriate orders within a period of six weeks thereafter in the light of Division Bench Judgment in W.A.No.2656 of 2004. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

jvm

To

- 1.The Secretary,
The State of Tamil Nadu
Higher Education Department,
Fort St.George, Chennai-600 009.
- 2.The Director of Collegiate Education,
College Road, Chennai-600 006.
- 3.The Joint Director of Collegiate Education,
Tirunelveli Region, Syed Building,
Sindupoonthurai Road, Tirunelveli-627 001.
- 4.The Correspondent and Secretary,
The Nesamony Memorial Christian College,
Marthandam, Kanyakumari District-629 165.
- 5.The Registrar,
Manonmaniam Sundaranar University
Abishekapatti, Tirunelveli-627 012.

+1cc to Government Pleader, Sr.55615
+1cc to M/s Ajmal Associate Sr.55224
+1cc to M/S N. Rajan, Advocate Sr.55212
+1cc to M/s S.Bharathi Rajan, Advocate Sr.55210

W.P.No.4594 of 2016

VSN(CO)
RVR 24/10/2016