



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 03.10.2016
CORAM

WEB COPY

THE HON'BLE Dr.JUSTICE S.VIMALA

W.P(MD) No.18859 of 2016
AND
WMP(MD).13652 OF 2016

The Secretary
Arul Anandar College (Autonomous),
Karumathur,
Madurai - 625 514.

... Petitioner

-vs-

1.The State of Tamil Nadu
re.by its Secretary
Department of Higher Education,
For St.George, Chennai - 600 009.

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

3.The Joint Director of Collegiate Education,
Madurai Region, Madurai - 625 001.

4.Madurai Kamaraj University,
Palkalai Nagar,
Madurai - 625 021,
rep.by its Registrar.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned Proceeding issued by 3rd respondent Joint Director in O.Mu. No. 334/U2/2016 dated 29.04.2016 Quash the same and further direct the 3rd respondent Joint Director to approve forthwith the appointment of 20 non-teaching staff (name list annexed) in the petitioners college and disburse the grant -in- aid towards their salary and allowances w.e.f. the date of their appointment viz. 1.9.2015 1.3.07 and 3.5.07.

For Petitioner : Mr.T.Cibi Chakraborty

For RR - 1 to 3 : Mr.V.Pandi,
Government Advocate

For R - 4 : Mr.R.M.Mahesh Kumar

**ORDER**

The proceeding of the third respondent dated 29.04.2016, declining to grant of approval for the appointment of 20 non-teaching staffs is under challenge in this Writ Petition.

2. Heard the learned counsel appearing for the petitioner; the learned Government Advocate, who takes notice for the respondents 1 to 3 and the learned counsel who takes notice for the fourth respondent. By consent the writ petition itself is taken up for final disposal at the admission stage.

3. The petitioner is the Secretary of Arul Anandar College (Autonomous) which is a private aided Minority College affiliated to the fourth respondent. The college is aided by the Government of Tamil Nadu. As per the norms fixed by the respondents 1 and 2, the petitioner college was sanctioned 33 non-teaching posts. Out of 33 posts, 20 posts have fallen vacant in recent years. The college filled the said 20 posts, which are permanent vacancies, arose on account of retirement/death of the staffs, who have already been functioning for a long time in the petitioner college and the details of 20 appointments are as follows:

S.N o	Name	Department	Date of appointmen t	Vacancy details
1	M.Muthaiah	Scavenger	01.09.2015	Due to retirement of Thiru.Dharmar as Scavenger on 30.03.2012
2	S.Arockiadoss	Watchman	01.03.2007	Due to retirement of Thiru.Chinna Thevar as Watchman on 30.11.2006
3	P.Arumugam	Waterman	01.09.2015	Due to the death of Thiru.Pandi as Waterman on 22.02.1999
4	K.Chinnappan	Marker	01.09.2015	Due to promotion of Thiru.O.Karuppana Thevan as Library Assistant on 01.09.2009.



5	R.Thangamayan	Watchman	01.09.2015	Due to retirement of Thiru.Karuthakannan as Watchman on 30.10.2009
6	R.Thomas Acqvenas	Junior Assistant	01.09.2015	Due to retirement of Thiru.Anthony as Junior Assistant on 30.04.2005
7	A.Lourdu Rani	Junior Assistant	01.09.2015	Due to death of Thiru.K.Maheswaran as Junior Assistant on 30.04.2005.
8	A.Suresh	Gardener	01.09.2015	Due to the promotion of V.Ikode as Record Clerk on 01.01.2011
9	M.Mary Annammal	Typist	01.09.2015	Due to promotion of S.Graci as Assistant on 01.01.2014
10	V.Yogappandi	Lab Assistant	01.09.2015	Due to retirement of Thiru.A.Mariya Sebastian as Lab Assistant on 31.07.2011.

11	M.Kannan	Live Stock Assistant	01.09.2015	Due to retirement of Thiru.P.Chandara Sekaran as Live Stock Assistant on 31.07.2011
12	M.Sahaya Julie Jubila	Typist	01.09.2015	Due to promotion of Thiru.Joseph Xavier Raja as Assistant on 01.07.2013
13	P.Dharmaraj	Office Assistant	03.05.2007	Due to promotion of Thiru.John Peter Christopar as Library Assistant on 01.05.2007
14	S.Edward Xavier	Office Assistant	01.09.2015	Due to promotion of Thiru.Nelson as Assistant on 01.10.2007.



15	V.Archunan	Office Assistant	01.09.2015	Due to retirement of Thiru.Nalathambi as Office Assistant on 31.08.2013
16	V.Azhakar	Agri.Field Assistant	01.09.2015	Due to retirement of Thiru.J.M.R.Vannathamizan as Agri Field Assistant on 31.05.2014
17	S.Sebastin Packiaraj	Sweeper	01.09.2015	Due to the promotion of Thiru.Maheswaran as Assistant on 01.07.2007.
18	V.Justin Sahayaraj	Sweeper	01.09.2015	Due to the death of Thiru.Thavasi as Sweeper on 19.02.2002
19	C.Jeyapandi	Sweeper	01.09.2015	Due to the retirement of Palanisamy as Sweeper on 31.07.2015
20	K.Ravichandran	Record Clerk	01.09.2015	Due to promotion of Maheshwaran as Junior Assistant on 01.01.2011.

4.The college wanted approval for the above said appointment of 20 non-teaching staffs, for which, the petitioner college submitted proposals to the third respondent by the letter dated 12.12.2015. The third respondent has returned the said proposals by the impugned proceedings dated 29.04.2016 stating that without getting prior permission from the Director of Collegiate Education, Chennai, the petitioner college has made the 20 appointments.

5.The learned counsel for the petitioner submitted that prior permission is not a *sine quo non* for getting approval and the issue involved in the present writ petition has already been decided by this Court in WP(MD)No.16897 of 2015, dated 15.06.2015, in which, at paragraph - 4, it has been held as follows:

<https://hcservices.ecourts.gov.in/hcservices> 4. It is a well settled law by catena of decisions that whenever sanctioned posts are there and any vacancy arises due to retirement, death or



resignation of the persons holding those posts, the same should be filled up by the concerned aided institution without loss of time, so that the education of the students would not be affected and the education of the students is a paramount consideration in these matters. It is a different matter if a Teacher is appointed beyond the sanctioned strength. In this case, it is not in dispute that the petitioner was appointed by the fourth respondent college in the sanctioned post. Furthermore, the fourth respondent is a minority institution governed by Article 30 of the Constitution of India."

6. According to the learned counsel for the petitioner, in view of the above said decision, the impugned order dated 29.04.2016 is liable to be quashed.

7. The said contention is well founded and therefore, the proceedings of the third respondent is quashed, as the petitioner institution is a minority institution, which has an autonomous status also. Therefore, the respondents must grant approval to the appointment of the above mentioned 20 non-teaching staffs. Accordingly, the third respondent is hereby directed to grant approval for the appointment of 20 staffs, in the light of the decision rendered by this Court in WP(MD) No.16897 of 2015, dated 15.06.2015 and to pass orders within a period of four weeks from the date of receipt of a copy of this order.

8. The Writ Petition is ordered accordingly. No costs. Consequently, connected WMP(MD) No.13652 of 2016 is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
State of Tamil Nadu
Department of Higher Education,
For St. George, Chennai - 600 009.

2. The Director of collegiate Education,
<https://hcservices.ecourts.gov.in/hcservices/>
College Road, Chennai - 600 006.



3.The Joint Director of Collegiate Education,
Madurai Region, Madurai - 625 001.

+1 cc to Mr.R.M.Mahesh Kumaravel, Advocate in SR No.59117

+1 cc to Mr.T.Cibi Chakraborty, Advocate in R No.58244

+1 cc to the Spl.Govt.Pleader in SR No.58282

W.P (MD) No.18859 of 2016
03.10.2016

MJ

ANR/EM-MPA/08.11.2016/6P/7C