



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

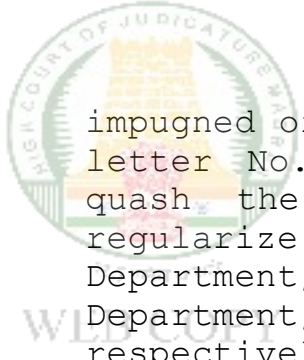
W.P. (MD) Nos.15859 to 15864 of 2013

C.Murthy : Petitioner in W.P. (MD) No.15859 of 2013
G.Sivakumar : Petitioner in W.P. (MD) No.15860 of 2013
K.Asokan : Petitioner in W.P. (MD) No.15861 of 2013
M.Pugazhenthir : Petitioner in W.P. (MD) No.15862 of 2013
G.Muruganandam : Petitioner in W.P. (MD) No.15863 of 2013
V.Swaminathan : Petitioner in W.P. (MD) No.15864 of 2013

Vs.

- 1.The Government of Tamil Nadu,
Represented by the
Principal Secretary to Government,
Higher Education Department,
Secretariat,
Fort St. George,
Chennai-600 006.
- 2.The Director of Collegiate Education,
Chennai-600 006.
- 3.The Joint Director,
Collegiate Education, Tiruchi Region,
Tiruchi-2.
- 4.A.Veeriya Vandayar Memorial
Sri Pushpam College (Autonomous),
Poondi-613 503, Thanjavur District,
Represented the
Secretary cum Correspondent
- 5.The Principal,
A.V.V.M.Sri Pushpam College (Autonomous),
Poondi (Post),
Thanjavur-613 503. : Respondents in all W.Ps.

<https://hse.cerulesecourts.gov.in/hse/Services/WritPetitions>
COMMON PRAYER: Writ Petitions are filed under Article 226 of the
Constitution of India praying for the issue of a Writ of
Certiorari/fid Mandamus, to call for the records relating to the



impugned order passed by the first respondent dated 09.03.2012, in letter No.18334/E2/2010-2, (Higher Education) E2 Department and quash the same and consequently, direct the respondents to regularize the petitioners' appointment as Lecturers in Zoology Department, Mathematics Department, Zoology Department, Chemistry Department, Chemistry Department and Computer Science Department, respectively, in the fourth respondent College with effect from 25.01.2002 with all attendant, monetary and consequential benefits instead of 27.11.2006 and also pay arrears of salary within a reasonable time to be fixed by this Court.

For Petitioners : Mr.N.Dilip Kumar
(in all WPs)
For Respondents 1to3 : Mr.Aayiram K.Selvakumar,
(in all WPs) Government Advocate
For Respondents 4&5 : Mr.V.Panneer Selvam
(in all WPs)

COMMON ORDER

The petitioners were all appointed as Lecturers by the fourth respondent on 25.01.2002, as against vacancies caused to the sanctioned posts. The petitioner in W.P.(MD)No.15859 of 2013 was appointed in the department of Zoology, the petitioner in W.P.(MD)No.15860 of 2013 was appointed in the department of Mathematics, the petitioner in W.P.(MD)No.15861 of 2013 was appointed in the department of Zoology, the petitioner in W.P.(MD)No.15862 of 2013 was appointed in the department of Chemistry, the petitioner in W.P.(MD)No.15863 of 2013 was appointed in the department of Chemistry and the petitioner in W.P.(MD)No.15864 of 2013 was appointed in the department of Computer Science. The fourth respondent submitted a proposal to the second respondent for approving their appointment. Accordingly, their appointments were approved with effect from 27.11.2006, though their initial date of appointment was 25.01.2002. The fourth respondent made an appeal to the Government, thereby appealable to the Government that the services of these petitioners should be regularized from the date of original appointment, viz., 25.01.2002. The first respondent, by his proceedings in Letter No.18334/E2/2010-2, Higher Education (E2) Department, dated 09.03.2012, rejected the same. Challenging the same, the petitioners are before this Court with these Writ Petitions.

2. I have heard the learned counsel for the petitioners, the learned Government Advocate appearing for the respondents 1 to 3 and the learned counsel appearing for the respondents 4 and 5. I have also perused the records carefully.

<https://hcservices.courts.gov.in/e-services/> 3. A perusal of the impugned order would go to show that the request for regularization of the services of the petitioners with effect from 25.01.2002 was declined on two grounds, viz., there



was a ban by the Government for appointment during the relevant period and that there was no prior approval obtained from the Director's Office, before making appointment of these petitioners.

4. The learned counsel for the petitioners would submit that it has been too well settled by a catena of judgments of this Court that for making appointment as against the vacancy in a sanctioned post, no such prior approval or sanction is required from the authority concerned. In this regard, the learned counsel has relied on a judgment of this Court in S.Jayakumar v. The State of Tamil Nadu reported in 2011(1) CWC 822, wherein a learned Single Judge of this Court has taken the view that for making appointment as against a sanctioned post, which has already fallen in vacant, there is no prior approval or sanction required from the department. This view has been subsequently upheld by the Division Bench also.

5. As a matter of fact, a number of orders were passed in similar cases. One such case was relating to the appointment of one D.Arul Dhas as Lecturer in the Department of Physics in the Nesamony Memorial Christian College, Marthandam. He filed a Writ Petition and the same was allowed. A Writ Appeal filed was also dismissed and subsequently, in compliance with the order passed by this Court, the Government has issued G.O.(3D)No.12, Higher Education (E2) Department, dated 18.08.2014, wherein, the Government has approved the appointment of Mr.D.Arul Dhas from the date of his original appointment, viz., 20.02.2001.

6. From these Judgments of this Court as well as the Government Orders passed, in my considered view, the refusal of the Government in the instant cases to approve the appointment of the petitioners from the date of initial appointment is not legally sound and, therefore, the impugned order is liable to be interfered with.

7. So far as the stand taken by the Government that there was a ban for appointment, it is brought to the notice that the said ban was lifted in respect of teachers from 29.11.2001 under G.O.Ms.No.212, Personnel and Administrative Reforms (P) Department, dated 29.11.2001. Thus, that ground is also not available for the respondents.

8. In view of the said settled position, the impugned order of the Government, declining to regularize the services of the petitioners from the date of initial appointment, is liable to be set aside and accordingly, these Writ Petitions are allowed and the impugned order is set aside. The first respondent is directed to regularize the services of the petitioners from the date of their original appointment, viz., 25.01.2002. It is further directed that such consequential order shall be issued by the



first respondent, within a period of eight weeks from the date of receipt of a copy of this order. It is further directed that the consequential monetary benefits shall also be extended to the petitioners. No costs.

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/True Copy/

Sd/
Assistant Registrar(CS-I)

Sub Assistant Registrar.

To

1.The Principal Secretary to Government,
Government of Tamil Nadu,
Higher Education Department,
Secretariat,
Fort St. George,
Chennai-600 006.

2.The Director of Collegiate Education,
Chennai-600 006.

3.The Joint Director,
Collegiate Education, Tiruchi Region,
Tiruchi-2.

+1CC to M/S.N.Dilip Kumar, Advocate, SR.No. 68388

+1CC to the Special Government Pleader, SR.No. 68829

Common Order made in
W.P. (MD) Nos.15859 to 15864 of 2013

Dated: 14.11.2016

SML

AM/SK/SAR-3/25.11.2016/4P/6C