

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.11.2017

CORAM

THE HONOURABLE Mr.JUSTICE T.RAJA

W.P.No.30247 of 2017

Ms.S.Marthal

... Petitioner

Vs

1.The Director of Collegiate Education,
College Road,
Chennai-6.

2.The Joint Director of Collegiate Education,
Madurai Region,
Madurai.

3.The Secretary,
St. Justin's College of Education,
Madurai 625 009.

... Respondents

Writ Petition filed under Article 226 of The Constitution of India seeking for issuance of Writ of Mandamus directing the 1st respondent herein to approve and regularize the petitioner's appointment as Assistant Professor in History in St.Justin's College of Education, in the sanctioned retirement vacancy of Sr.R.Soosaiammal w.e.f.08.09.2017 in the light of approval given by the 1st respondent to the similarly placed persons like L.Vinnarasi in W.P.No.40235 of 2016 dated 16.11.2016 in Mu.Mu.No.52367/G2/2016 dated 21.03.2017 with monetary and all other attendant and service benefits based on the representation given by the petitioner dated 19.09.2017.

For Petitioner : Mr.A.V.Bharathi

For Respondents : Mr.P.Sanjay Gandhi, AGP for R1,R2
Mr.R.Bharathiraja for R3

O R D E R

The present Writ Petition has been filed seeking issuance of Writ of Mandamus to direct the 1st respondent herein to approve and regularize the petitioner's appointment as Assistant Professor-History in St.Justin's College of Education in the sanctioned retirement vacancy of Sr.R.Soosaiammal w.e.f. 08.09.2017 with monetary and all other benefits based on the representation given by the petitioner dated 19.09.2017.

Mr.R.Bharathiraja, learned counsel appearing for the third respondent.

3.The petitioner was appointed as Assistant Professor by the Secretary, St.Justin's College of Education, Madurai/third respondent herein in a sanctioned retirement vacancy on 08.09.2017 in the third respondent's college, as she is fully qualified by the UGC norms. Immediately, the third respondent College has also sent a proposal on 08.09.2017 to the first respondent seeking approval of her employment as Assistant Professor. The said proposal has not been approved till date. Therefore, a representation was given by the petitioner on 19.09.2017 to the first respondent seeking order of approval of her employment. Since, the first respondent has not considered the same, the petitioner is before this Court.

4.Learned counsel appearing for the petitioner would submit that the petitioner has been appointed only in a sanctioned retirement vacancy occurred on account of the retirement of Sr.R.Soosaialmmal, which could be seen from the proposal made by the third respondent to the first respondent and sought to direct the first respondent to consider the proposal sent by the third respondent.

5.Learned counsel appearing for the petitioner has drawn the attention of this Court to the order passed by me. While dealing with a similar issue, I have held that there is no requirement under the Tamil Nadu Private Colleges [Regulation] Act, 1976 and Tamil Nadu Private Colleges [Regulation] Rules, 1976, to seek prior permission to fill up any vacant post in an aided college, which has already been sanctioned.

6.It is pertinent to extract relevant paragraph No.5 of the Common Order passed in W.P.Nos.26780 to 26782 of 2017 in the case of M.Jaslin Melbha and Others Vs The Director of Collegiate Education and Others.

"5. Learned counsel for the petitioners has also placed reliance on the order passed by me in Dr.J.Elizabeth Christina Vs. the Director of Collegiate Education and others (W.P.No.7129 of 2017, dated 23.03.2017), wherein, in a similarly circumstances, I have held thus:

"4.At this juncture, it is felicitous to point out that the issue that falls for the consideration of this Court, viz., whether a minority educational institution is under an obligation to obtain prior permission before making any appointment in a sanctioned post, is no longer res integra, for, while holding sitting at the Madurai Bench, I had an occasion to deal with a batch of writ petitions in B.Arul Ananda Ganesh and another Vs. The Secretary to Government, Education Department, State of Tamil Nadu, St. Fort George, Chennai-9 and others, wherein too, the issue was precisely the same as in the instant case. In the said judgment, following the

judgment of a Division Bench of this Court in P.Ravichandran vs. State of Tamil Nadu and others, it was held as under:

"3.A cursory reading of the aforementioned Hon'ble Division Bench judgment in (2013) 7 MLJ 641, clearly shows that the issue raised in the present writ petitions, is no longer res integra, because, the Hon'ble Division Bench of this Court in the aforementioned judgment has also made it clear that there is no requirement under the Tamil Nadu Private Colleges (Regulation) Act, 1976 and Tamil Nadu Private Colleges (Regulation) Rules, 1976, to seek prior permission to fill up any vacant post in an aided college, which has already been sanctioned for the academic year by the Director of Collegiate Education under Rule 11(1) of the Rules.

4. Therefore, the issues raised in the present writ petitions having been settled by this Court, I have no hesitation to accept the prayer made by the petitioners.

5. In the result, the writ petitions are disposed of with a direction to the respondents to approve the appointment of the petitioners in the fourth respondent school and to sanction grant, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous petitions are closed."

The above observation will squarely apply to the cases on hand."

7. Therefore, for the above reasonings, the first respondent is directed to consider the proposal sent by the third respondent and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order.

With the above direction, the Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Director of Collegiate Education,
College Road,
Chennai-6.

2.The Joint Director of Collegiate Education,
Madurai Region,
Madurai.

3.The Secretary,
St. Justin's College of Education,
Madurai 625 009.

+1cc to Mr.A.V.Bharathi, Advocate SR.No.83482
+1cc to Government Pleader SR.No.84248

W.P.No.30247 of 2017
1/2

RT(CO)
sm:4.12.2017



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