

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:02.06.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.8971 of 2017

C.Arul kumar

... petitioner

Versus

1. Director of Collegiate Education,
College Road,
Chennai - 600 006.
- 2.The Joint Director of Collegiate Education,
Thirunelveli Region,
Thirunelveli - 627 007.
- 3.The Secretary - Cum- Correspondent,
Scott Christian College,
Nagercoil,
Kanyakumari District. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the 1st Respondent to approve the petitioner's appointment as Herbarium Keeper in Scott Christian College, Nagercoil, in the sanctioned termination vacancy of Mr. D. Yesu Asir Singh with effect from 03.08.1999 to 22.06.2007 in the light of approval given by the 1st respondent to the similarly placed non - teaching staff namely Mr.Palayyan and Mr.Robin Jebanese vide Na.Ka.No.52029/F2/2013 dated 02.04.2014 and Na.Ka.No.52028/F2/2013 dated 21.08.2014 with monetary benefits, and other attendant benefits with effect from 03.08.1999 to 22.06.2007 based on the representation given by the petitioner dated 04.10.2016 and pass such further orders.

For petitioner : M/s. R. Elizabeth

For Respondents : Mr. P. Sanjay Gandhi
Additional Government Pleader
for R1&R2,

: Mr.S.Bharathirajan for R3

O R D E R

The petitioner was appointed by the Secretary-cum-Correspondent of the 3rd respondent college as Herbarium Keeper in the sanctioned vacancy caused by the termination of Mr.D.Yesu Asir Singh with effect from 03.08.1999. Pursuant thereto, a proposal was addressed to the second respondent viz., the Joint Director of Collegiate Education, Thirunelveli Region, Tirunelveli by the third respondent, stating that the petitioner was appointed in a sanctioned post in the third respondent college from 03.08.1999. It was also mentioned therein that there is no requirement to obtain prior permission before filling up of the sanctioned post, as they are legally entitled to make such appointment without prior approval of the respondents. Considering the proposal sent by the third respondent, the second respondent has passed an order of approval only with effect from 22.06.2007. Aggrieved by the non grant of approval from the date of his appointment viz., 03.08.1999, the petitioner came forward to file this writ petition.

2. Heard the submission of Mr.R.Elizabeth, learned counsel appearing for the petitioner; Mr.P.Sanjay Gandhi, learned Additional Government Pleader appearing for the first respondent and Mr.S.Bharathirajan, learned counsel appearing for the third respondent.

3. When the petitioner was appointed as Herbarium Keeper in the sanctioned vacancy caused by the termination of Mr.D.Yesu Asir Singh, with effect from 03.08.1999, a proposal was sent to the second respondent seeking an order of approval of his appointment. The proceedings of the second respondent dated 12.12.2007 shows that the petitioner was appointed in a sanctioned post in the third respondent college and since the third respondent college is a Minority Educational Institution, it is a well settled legal position that no prior approval is required from the respondents authority for filling up any sanctioned post. However, the second respondent, while granting the order of approval of petitioner's appointment, should have granted the approval only from the date of his appointment viz., 03.08.1999. As it has not been done so, this Court, while accepting the order of approval dated 12.12.2007 issued by the second respondent, directs the first respondent to approve the petitioner's appointment as Herbarium Keeper from the date of his original appointment viz., 03.08.1999, in the light of the proposal made by the third respondent, within a period of eight weeks from the date of receipt of a copy of this order.

4. The writ petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

vsm

To

1. Director of Collegiate Education,
College Road,
Chennai - 600 006.

2. The Joint Director of Collegiate Education,
Thirunelveli Region,
Thirunelveli - 627 007.

+1cc to Mr.S.Bharathi Rajan, Advocate sr.39669

+1cc to M/s.R.Elizabeth, vide sr.39670

+1cc to Government Pleader sr.40055

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skv(co)
ss(22/6/2017)

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