

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2017

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.Nos.26780 to 26782 of 2017

M.Jaslin Melbha .. Petitioner in W.P.No.26780/17
Dr.G.J.Jenila .. Petitioner in W.P.No.26781/17
Dr.E.Jasmine .. Petitioner in W.P.No.26782/17

-vs-

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

2.The Joint Director of Collegiate Education,
Thirunelveli Region,
Thirunelveli - 627007.

3.The Secretary-cum-Correspondent,
Women's Christian College,
Nagercoil, Kanyakumari District.

.. Respondents in all the WPs

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of mandamus to direct the respondents 1 and 2 to approve the petitioners' appointment as Assistant Professor in Mathematics, Zoology and Zoology respectively, in the Women's Christian College, Nagercoil, in the sanctioned retirement vacancy of Mrs.P.Nalatha Padmini, Dr.R.Vasantha and Dr.Retna Latha Sinazer respectively with effect from 15.06.2017 in the light of approval given by the first respondent to the similarly placed persons in Na.Ka.No.712/F2/2017, dated 27.02.2017, Na.Ka.No.713/F2/2017, dated 27.02.2017, Na.Ka.No.714/F2/2017, dated 09.03.2017 and Na.Ka.No.715/F2/2017, dated 07.03.2017 in W.A.No.2318 of 2011, dated 11.10.2013 with monetary and all other attendant and service benefits.

For petitioners : Mr.P.Ganesan

For R1 & R2 : **Mr.R.A.S.Senthilvel, AGP**

For R3 : Mr.S.Bharathirajan

COMMON ORDER

The petitioners seek for issuance of a writ of mandamus to direct the respondents 1 and 2 to approve their appointment as Assistant Professor in Mathematics, Zoology and Zoology respectively, in the Women Christian College, Nagercoils, in the sanctioned retirement vacancy of Mrs.P.Lalatha Padmini, Dr.R.Vasantha and Dr.Retna Latha Sinazer respectively, with effect from 15.06.2017.

2. Heard the learned counsel appearing on either side.

3. Since the facts involved in all these writ petitions are one and the same, they are disposed of by this common order. For better appreciation, facts involved in W.P.No.26780 of 2017 are stated below:-

4. The petitioner was appointed in the third respondent College as Assistant Professor (Mathematics) on 14.06.2017, in a sanctioned vacancy, that has arisen due to the retirement of one Mrs.P.Nalatha Padmini. Her appointment was duly approved by the College Committee in its resolution dated 10.06.2017 and the minutes of the said resolution was forwarded to the first respondent for approval on 17.07.2017. But, till now, the first respondent has not replied to the said minutes sent by the third respondent College.

5. Learned counsel for the petitioners has also placed reliance on the order passed by me in Dr.J.Elizabeth Christina v. 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.

6. Besides, in the present case also, the third respondent College is a minority institution receiving grant-in-aid from the State Government for both teaching as well as non-teaching staff. Secondly, the petitioners were appointed as Assistant Professor in a retirement vacancies occurred on account of retirement of one Mrs.P.Nalatha Padmini, Dr.R.Vasantha and Dr.Retna Latha Sinazer respectively, who were retired on 31.05.2017. Thirdly, the first respondent also in his proceedings dated 28.10.1999, had permitted the third respondent College to fill up the vacancies that arose in the vacant posts of the year 1999-2000 and it is further stated that they had sanctioned five posts of Assistant Professors, in which, in the present case, the petitioners were appointed on retirement of aforesaid persons.

7. Therefore, for the reasons stated above, the first respondent is directed to receive the proposal and pass appropriate orders in all these three writ petitions in the light of the decision cited supra within a period of four weeks

from the date of receipt of a copy of this order. Accordingly, these writ petitions are disposed of. No Costs.

rkm

Sd/-
Assistant Registrar(CO)
Dated: 09.11.2017

*Corrected order
to be issued
Sd/- Sub Assistant Registrar
Dated: 27.11.2017

//True Copy//

Sub Assistant Registrar

To

- 1.The Director of Collegiate Education,
College Road, Chennai - 6.
- 2.The Joint Director of Collegiate Education,
Thirunelveli Region,
Thirunelveli - 627007.
- 3.The Secretary-cum-Correspondent,
Women's Christian College,
Nagercoil, Kanyakumari District.

+3c to Mr.S.Bharathirajan, Advocate, S.R.No.78138,78137,78136
+3cc to Mr.P.Ganesan, Advocate, S.R.No.78140,78141,78139
+1cc to the Government Pleader, S.R.No.78282

सत्यमेव जयते

W.P.Nos.26780 to 26782 of 2017

CP(CO)
GN(09/11/2017)
SP(27/11/2017)

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