



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2017

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THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P(MD) No.13668 of 2016

Evelin D.R.Melcheja

... Petitioner

-vs-

1. The Director of Collegiate Education,
College Road,
Chennai-600 006.
2. The Joint Director of Collegiate Education,
Thirunelveli Region, Thirunelveli-627 001.
3. The Secretary-cum-Correspondent,
Scott Christian College,
Nagercoil-629 003.
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent herein to approve and regularize petitioner appointment as Assistant Professor in English in the Scott Christian College (Autonomous), Nagercoil in the sanctioned retirement vacancy of Mr.F.Shyam Ranjith Kumar with effect from 15.12.2011 to 06.07.2014 in the light of approval given by the 1st respondent to the similarly placed person in Na.Ka.No.4593/F2/2016 dated 15.04.2016 and Na.Ka.No.4452/E2/2016 dated 09.06.2016, Na.Ka.No.19837/F2/2007 dated 14.03.2014 and Na.Ka.No.33733/F2/2005 dated 01.09.2014, in W.P.No.17368 of 2005 dated 29.06.2005, W.A.Nos.140 of 2000, 811 of 2006 and 805 of 2007 dated 21.10.2010 and in SLP Nos.19526 to 19528 of 2013 dated 29.11.2013 with monetary service and all other benefits for the said period.

For Petitioner	: Mr.M.R.Sreenivasan
For R1 & R2	: Mr.A.K.Baskara Pandian Spl. Govt. Pleader
For R3	: Mr.F.Deepak

O R D E R

This writ petition has been filed, seeking to direct the 1st respondent herein to approve and regularize petitioner appointment as Assistant Professor in English in the Scott



Christian College (Autonomous), Nagercoil in the sanctioned retirement vacancy of Mr.F.Shyam Ranjith Kumar with effect from 15.12.2011 to 06.07.2014 in the light of approval given by the 1st respondent to the similarly placed person in Na.Ka.No.4593/F2/2016 dated 15.04.2016 and Na.Ka.No.4452/E2/2016 dated 09.06.2016, Na.Ka.No.19837/F2/2007 dated 14.03.2014 and Na.Ka.No.33733/F2/2005 dated 01.09.2014, in W.P.No.17368 of 2005 dated 29.06.2005, W.A.Nos.140 of 2000, 811 of 2006 and 805 of 2007 dated 21.10.2010 and in SLP Nos.19526 to 19528 of 2013 dated 29.11.2013 with monetary service and all other benefits for the said period.

2. Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader, appearing for the respondents 1 & 2 and the learned counsel for R3.

3. The case of the petitioner is that she has completed M.A.,M.Phil with UGC-NET and SET and has been appointed as Assistant Professor in English in Scott Christian College (Autonomous), Nagercoil with effect from 15.12.2011 against the vacant and sanctioned post arisen on account of retirement of one F.Shyam Ranjit Kumar; that the 1st respondent approved her appointment only from 07.07.2014 instead of 15.12.2011, though her qualification was duly approved by the Manonmaniam Sundaranar University with effect from 15.12.2011; that she sent a representation dated 16.06.2016 to the 1st respondent in this regard, seeking regularization of her service from 15.12.2011, but there was no response from the other end so far.

4. Learned counsel for the petitioner would submit that there is no necessity to obtain prior approval from the 1st respondent to fill up a vacancy, which has arisen against the sanctioned post and he has also relied upon some of the Government Orders issued in favour of similarly placed persons, thereby regularizing their services from the date of appointment. Learned counsel for the petitioner drew the attention of this Court to the judgment of this Court in the case of **A.Linda Primlyn vs. The Directorate of Collegiate Education, College Road, Chennai and others [W.P.(MD) No.2826 of 2016] decided on 22.02.2016**, wherein this Court, by citing a judgment of the Hon'ble Division Bench of this Court, directed the respondents therein to consider the case of the petitioner therein suitably. The Hon'ble Division Bench of this Court in **P.Ravichandran vs. State of Tamil Nadu, Rep. by Secretary to Government, Department of Higher Education, Chennai and others**, reported in **2013 (7) MLJ 641** has 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 for the academic year by the Director of Collegiate Education under Rule 11(1) of the Rules.



5. At this juncture, learned Special Government Pleader appearing for the respondents 1 & 2 would submit that the 1st respondent is prepared to consider the representation dated 16.06.2016 of the petitioner within a reasonable time frame.

6. On a conspectus of the facts obtaining in this case, it is very clear that the 1st respondent, while approving the appointment of the petitioner, should have approved her appointment with effect from her initial appointment, viz., 15.12.2011 instead of 07.07.2014. Therefore, this Court directs the 1st respondent to consider and dispose of the petitioner's representation dated 16.06.2016 and pass appropriate orders thereon in respect of regularization of her service from 15.12.2011 and also payment of her salary and other benefits for the interregnum period, within a period of six weeks from the date of receipt of a copy of this order, if there is no legal impediment to do so, in the light of the judgments referred to above and earlier approvals granted to the similarly placed persons.

With the above direction, this petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To:

1. The Director of Collegiate Education,
College Road,
Chennai-600 006.
2. The Joint Director of Collegiate Education,
Thirunelveli Region,
Thirunelveli-627 001.

+1 cc to Mr.F.Deepak, Advocate, SR.No.11085

W.P(MD) No.13668 of 2016
27.02.2017

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