

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2018

C O R A M

THE HON'BLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P.No.7739 of 2018 &
W.M.P.No.9662 of 2018

R.Rajitha

... Petitioner

Versus

- 1.The Director of Collegiate Education,
E.V.K.Sampath Malligai,
College Road, Chennai - 600 006.
- 2.The Joint Director of Collegiate Education,
Thanjavur Region,
Rajah Serfoji Govt. College Campus,
Thanjavur - 613 005.
- 3.The President
representing the College Committee,
A.V.C College (Autonomous),
Mannampandal,
Mayiladuthurai,
Nagapattinam - 609 305.
- 4.The Secretary,
A.V.C College (Autonomous),
Mannampandal,
Mayiladuthurai,
Nagapattinam - 609 305.
- 5.The Principal,
A.V.C College (Autonomous),
Mannampandal,
Mayiladuthurai,
Nagapattinam - 609 305.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking to issue a writ of mandamus to direct the 3rd respondent, the president representing the College Committee, A.V.C. College (Autonomous), Mannampandal, Mayiladuthurai, to consider the application dated 16.03.2018 of the petitioner to the posts Junior Assistant and Typist and appoint the petitioner to any one of the said posts.

For Petitioner ... Mr.R.Ramachandran

For Respondents 1 & 2 ... Mr.C.Munusamy,
Special Government Pleader

ORDER

The relief sought for in this writ petition is for a direction to the 3rd respondent to appoint the writ petitioner to the post of Junior Assistant and Typist based on his application.

2.The writ petitioner is now working as a Personal Assistant to the Principal of the A.V.C. College (Autonomous), Mayiladuthurai, Mannampandal, Nagapattinam District. The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner was appointed on consolidated pay salary and the 3rd respondent is not absorbing the writ petitioner on permanent basis in a regular time scale of pay.

3.The contention of the writ petitioner is that he is fully qualified for the post of Junior Assistant-cum-Typist and therefore, the 3rd respondent ought to have considered the case of the writ petitioner, based on his application. In this regard, a direction is sought for to consider the application submitted by the writ petitioner for appointment to the said post.

4.The learned Special Government Pleader appearing on behalf of the respondents 1 and 2 states that the writ petition is not maintainable, on the ground that the relief of direction to appoint the writ petitioner is sought for, against the 3rd respondent who is a private institution. Thus, no writ petition can be entertained against the private college.

5.This Court is of an opinion that by submitting an application, the writ petitioner cannot seek a direction to consider his case for appointment. Appointment is to be made only by following the Recruitment Rules in force. Equal opportunity in appointment is a constitutional mandate. Any institution, while undertaking the process of selection has to consider the names of all the eligible candidates, who have submitted their respective applications for appointment to the post. Thus, the writ petitioner alone cannot seek a direction to consider his case for appointment to the post of Junior Assistant.

6.Appointment can never be claimed as a matter of right. If any application is submitted at the time, when the process of

selection is undertaken, then alone the applications are to be scrutinized and considered in accordance with the rules. Mere submission of an application will not confer any right on the candidate to seek a direction by way of a writ proceedings. Such writ petitions are not maintainable, in view of the fact that the writ petitioner has not established, even a semblance of legal right, so as to consider the relief as such sought for in this writ petition. Establishing the legal right is a pre-condition for entertaining the writ proceedings under Article 226 of the Constitution of India.

7. In the present case on hand, the writ petitioner is already in service as a Personal Assistant to the Principal of the 3rd respondent College. Now he seeks for permanent appointment in the regular time scale of pay. Such a permanent appointment has to be made only in accordance with the rules and by following the established selection procedures contemplated. This being the factum of the case, the writ petitioner has not established the legal right, so as to consider the relief as such sought for in this writ petition.

8. Thus, the writ petition is devoid of merits and stands dismissed. However, there shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

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To

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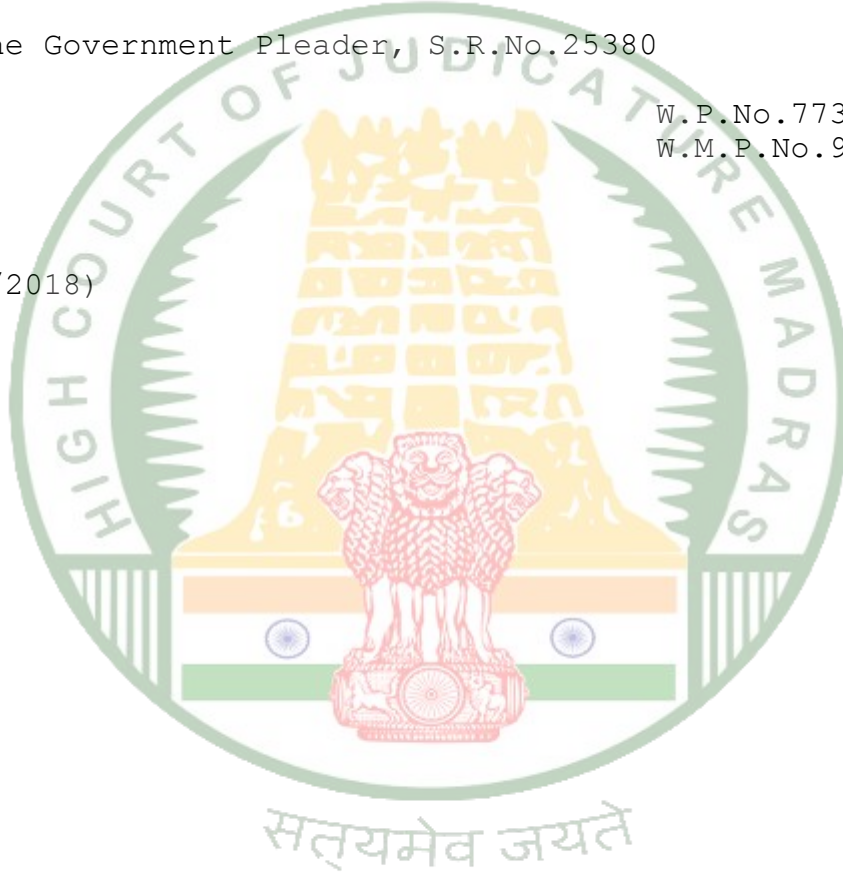
+1cc to Mr.R.Ramachandran, Advocate, S.R.No.25174

+1cc to the Government Pleader, S.R.No.25380

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SAI (CO)

RRK(16/04/2018)



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