

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.7.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH

AND

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Writ Appeal No.725 of 2013

The Secretary
Nesamany Memorial Christian College
Marthandam
Kanyakumari District. ... Appellant

Vs.

1. S.Anitha
2. The Joint Director of Collegiate Educational
Tirunelveli 2. ... Respondents

Appeal filed under Clause 15 of Letters Patent against the order dated 10.4.2012 made in W.P.No.19710 of 2003.

WP.No.19710 of 2003:Petition filed under Article 226 of the constitution of India, praying for a writ of mandamus directing the respondents 1 & 2 to pay the petitioner the arrears of salary, allowances and increments for the work done by the petitioner as a lecturer in Malayalam in the 2nd respondent college from 12.8.96 to 29.10.99.

For Appellant : Mr.P.Godson Swaminath

For Respondent-1 : Ms.M.Sri Vidhya

For Respondent-2 : Mr.K.Karthikeyan
Government Advocate

J U D G M E N T
(Delivered by M.Dhandapani,J)

This writ appeal is directed against the order dated

10.4.2012 made in W.P.No.19710 of 2003.

2. Heard Mr.P.Godson Swaminath, learned counsel appearing for the appellant, Mr.M.Sri Vidhya, learned counsel appearing for the first respondent and Mr.K.Karthikeyan, learned Government Advocate appearing for the second respondent.

3. The case of the first respondent is that she is qualified with M.A., M.Phil and she has been working as Lecturer in Malayalam by the appellant College since 12.8.1996, without any break in service. It appears that her appointment was approved only from 30.10.1999. Further, she has not been paid the salary and allowances for the period from 12.8.1996 to 29.10.1999, namely from the date of joining till the date of approval. Therefore, claiming arrears of salary to the tune of Rs.4,68,572/-, the first respondent filed the writ petition.

4. The learned single Judge, by the order impugned in this writ appeal, taking note of the fact that the appellant, pursuant to the permission given by the second respondent by proceedings dated 23.10.1999, to fill up the post of Lecturer in Malayalam, issued order of appointment on 29.10.1999, appointing the first respondent from 30.10.1999 and the same was approved by the second respondent from 30.10.1999, directed the appellant to pay the arrears of salary and allowances to the first respondent.

5. Admittedly, the appellant was permitted to fill up the post of Lecturer in Malayalam, by the second respondent, by proceedings dated 23.10.1999 and accordingly, the appellant issued order of appointment to the first respondent on 29.10.1999 appointing her from 30.10.1999. The said appointment was approved by the second respondent from 30.10.1999. Therefore, till the date of approval, the second respondent cannot be made responsible for payment of salary to the first respondent, for the period in question, unless the said appointment is approved in the manner known to law and that the appellant Management having extracted work from the first respondent, for the period from 12.8.1996 to 29.10.1999, ought to have paid the salary to the first respondent. Thus, the learned single Judge has rightly held that the appellant has to pay the salary to the first respondent on par with an approved Lecturer.

6. In view of the above, we do not find any reason to interfere with the order of the learned single Judge and accordingly, the writ appeal is dismissed. However, we make it

clear that the first respondent shall work out all her remedies/make her claims before the *** Appellant**. There shall be no order as to costs. Consequently, M.P.No.1 of 2013 is also dismissed.

Sd/-

Assistant Registrar(CS VII)
Dated: 03/09/2018

*** Corrected as per order of this Court
dated 11.03.2020 made in CMP. 7310 of 2019 in
WA. 725/2013**

Sd/- Assistant Registrar(CS III)
Dated: 17/03/2020

//True Copy//

Sub Assistant Registrar

kpl

To

The Joint Director of
Collegiate Educational
Tirunelveli 2.

to be substituted to the
order already despatched
on 01.10.2018

+lcc to Mr.M.Srividhya Advocate SR.No.21942
+lcc to the Government Pleader SR.No.51347
+lcc to Mr.Godson Swaminath , Advocate Sr.No.22297

सत्यमेव जयते

W.A.No.725 of 2013

SSI (CO)
sm:4.9.2018
GN(17/03/2020)

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