

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2018

CORAM:

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.30992 of 2018

E.Ashlyn Kirupa

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by Secretary,
Department of Higher Education,
Fort St. George,
Chennai.
2. Director of Collegiate Education,
College Road,
Chennai - 600 006.
3. The Joint Director of Collegiate Education,
Thirunelveli Region,
Thirunelveli - 627 007.
4. The Correspondent / Secretary,
Nesamony Memorial Christian College,
Marthandam - 629 165.
Kanyakumari District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, to direct the 1st and 2nd respondents herein to approve and regularize the appointment of the petitioner as Lecturer in Physics in the Nesamony memorial Christian College, Marthandam, in the sanctioned retirement vacancy of D.Vincent Devaraj with effect from 13.09.2006 to 30.07.2007 in the light of approval given by the 2nd respondent to the similarly placed persons Dr.N.Austin John Manohar in Na.Ka.No.35049/F2/2016 dated 27.07.2017 and G.Anne Nithya in Na.Ka.No.31159/F2/2017 dated 23.04.2018 and J.Premakumari & others in 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, 811 of 2006 and 805 of 2007 and in SLP Nos.19526 - 19528 of 2013 with all attended, service and monetary benefits.

For Petitioner : Mr.A.Rajesh

For Respondents : Mrs.P.Kavitha,
Government Advocate (Education)
for R1 to R3
Mr.S.Bharathi Raja for R4.

ORDER

The petitioner was appointed as Lecturer in Physic in Nesamony Memorial Christian College, Marthandam, with effect from 13.09.2006 by the Secretary of the Nesamony Memorial Christian College, Marthandam.

1.1. It is claimed by the petitioner that the said post was a sanctioned and an approved post and she was appointed in the said post subsequent to the vacancy caused due to retirement of one D.Vincent Devaraj. Now, it is the grievance of the petitioner that though she was appointed in the said post with effect from 13.09.2006, however, her appointment was approved only with effect from 30.07.2007, which is discriminatory.

1.2. It is the further case of the petitioner that similarly placed persons filed a writ petition in W.P.No.17368 of 2005 seeking approval of their post from the date of initial appointment till the approval period in the sanctioned post with salary and other benefits, which was allowed by this Court on 29.06.2005, against which, the respondents went on appeal in W.A.Nos.140, 811 of 2006 and 809 of 2007, which was also dismissed. Against the order of dismissal of writ appeal, the respondents moved before the Supreme Court in SLP.No.19526-19528 of 2013, which was also dismissed, directing the respondents to approve the said posts from the initial date of appointment of the petitioners, as appointment was made in sanctioned posts. Based on the said order, the respondent granted approval from the date of appointment in the sanctioned post with all monetary and service benefits to the petitioner therein. Therefore, the petitioner made a representation dated 07.06.2018 before the second respondent, seeking approval and regularization of her appointment from the date of her initial appointment with salary and other benefits, i.e. with effect from 13.09.2006 to 30.07.2007. As the said representation has not been considered, the present writ petition has been filed by the petitioner.

2. The learned counsel appearing for the petitioner submitted that it would suffice if the representation of the petitioner dated 07.06.2018 is directed to be considered by the second respondent within the time stipulated by this Court.

3. In view of the limited prayer sought for, this Court directs the second respondent to consider the representation of the petitioner dated 07.06.2018 in the light of the decision taken earlier as pointed out in para-1.2 of this order, and to pass thereon, on merits and in accordance with law, within a period of four weeks, from the date of receipt of a copy of this order.

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

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Sd/-
Assistant Registrar(C.O)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary,
Department of Higher Education,
Fort St. George,
Chennai.
2. The Director of Collegiate Education,
College Road,
Chennai - 600 006.
3. The Joint Director of Collegiate Education,
Thirunelveli Region,
Thirunelveli - 627 007.
4. The Correspondent / Secretary,
Nesamony Memorial Christian College,
Marthandam - 629 165.
Kanyakumari District.

+1cc to Mr.A.Rajesh, Advocate, S.R.No.81025
+1cc to Mr.S.Bharathirajan, Advocate, S.R.No.81024
+1cc to the Government Pleader, S.R.No.81376

W.P.No.30992 of 2018

SPD(CO)
KAK(22/01/2019)