

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2018

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.34040/2018

S.Merlin Rajkumar

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Petitioner

Vs

1.The Secretary

State of Tamil Nadu
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,

Tirunelveli region, Tirunelveli 627 007.

4.The Correspondent/Secretary

Pope's College, Sawyerpuram-628 251
Thoothukudi District.

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Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the 2nd and 3rd respondents herein to approve my appointment as Gardener in the Pope's College, Sawyerpuram in the sanctioned vacancy caused by the promotion of Mr.P.Muralidharan Sornapandian with effect from 01.11.2016 with all attendant, monetary and service benefits.

For Petitioner

: Mr.A.Rajesh

For RR 1 to 3

: Mrs.Thangavadhana Balakrishna, AGP
Mr.S.Bharathi Rajan for R4

O R D E R

This writ petition is filed seeking direction to the the second and third respondents herein to approve the appointment of the petitioner as Gardener in the Pope's College, Sawyerpuram in the sanctioned vacancy, with all attendant monetary and service benefits, based on the proposal sent by the fourth respondent college.

2. The petitioner was appointed as Gardener in the fourth respondent college, against sanctioned post on 01.11.2016. Subsequently, the fourth respondent sent letters to the second and third respondents, seeking for approval of appointment of the petitioner, which has been neither approved nor returned till date. The petitioner also sent a representation to the second respondent on 15.10.2018, which has also not been considered. Therefore, the petitioner has filed the present writ petition for appropriate relief.

3. Mrs.Thangavadhana Balakrishnan takes notice on behalf of respondents 1 to 3 and Mr.Bharathi Raja takes notice for fourth respondent.

4. Learned counsel for the petitioner pointed out that in similar facts and circumstances in the writ petition filed by a similarly placed persons, this Court in W.P.No.28038 of 2017, by the order dated 02.11.2017, has held as follows.

"The respective respondents are directed to approve the appointments of non-teaching staff in the private aided colleges in these cases and to sanction grant, within a period of four weeks from the date of receipt of a copy of this order.

Thus, the issue is well settled now that any college, either minority / private / aided or unaided, is entitled to fill up the vacancy arising on account of promotion, retirement, removal, dismissal etc., against a sanctioned post already approved by the college authorities, without even obtaining prior permission from the Government. In the cases on hand, admittedly, the writ petitioners have been appointed against vacancies relating to sanctioned posts as non-teaching staff in various cadres and therefore, by following the above cited case laws, this Court hereby directs the respective respondents to approve the appointments of the non-teaching staff by the private aided colleges and to sanction the grant within a period of four weeks from the date of receipt of a copy of this order."

5. Considering the facts and circumstances of the present writ petition, this Court is of the view that the aforesaid order squarely applies to the facts of the present cases. Under the circumstances, the second and third respondents are directed to consider the representation of the petitioner dated 15.10.2018, based on the proposal sent by the fourth respondent college regarding the appointment of the petitioner to the non-teaching post in the fourth respondent college, taking into

account the order passed by this Court in W.P.No.28038 of 2017, dated 02.11.2017, cited in paragraph No.4 supra, and pass orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. The writ petitions are disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

kst

To

- 1.The Secretary
State of Tamil Nadu
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,
Tirunelveli region, Tirunelveli 627 007.

+1cc to Mr.A.Rajesh, Advocate Sr.89586

W.P.No.34040 of 2018

Rv[co]
srg 25/01/2019

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