



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2018

CORAM:

WEB COPY

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE Mrs.JUSTICE R.THARANI

W.A.(MD).No.182 of 2018

and

C.M.P(MD).No.985 of 2018

- 1.The Secretary to Government,
Higher Education Department,
Fort St. George,
Chennai-9.
- 2.The Director of College Education,
College Road,
Chennai-6.
- 3.The Joint Director of Collegiate Education,
Madurai Region. ... Appellants

Vs.

The Secretary,
Fathima College (Autonomous), Mary Land,
Madurai-625 018. ... Respondent

PRAYER:This appeal is filed under Clause 15 of Letters Patent, to set aside the orders of the Hon'ble Judge made in the order dated 27.11.2015 made in W.P.(MD)No.21152 of 2015.

Prayer in WP(MD). 21152/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARI FID MANDAMUS calling for the records relating to the impugned proceedings issued by the 3rd respondent Joint Director of Collegiate Education in O.Mu.No.3235/a8/2013 dated 29.10.2013 and the consequential proceeding in A.Thi.Mu.No.1439/22/2014 dated 24.03.2014, QUASH THE SAME and further DIRECT the 3rd respondent to approve forthwith the promotions given to the Lab Assistants as Junior Assistants in the petitioners college viz., Thiru T. Antony Dhanasekaran and Sr. F.Arockia Mary and disburse the grant-in-aid towards their salaries w.e.f. the date of their promotions viz., 02.04.2012 with all attendant benefits.



Prayer in MP (MD) No.2/2015 in WP (MD). 21152/ 2015 :-

Petition filed under Article 226 of the Constitution of India, praying this Court to issue an order of AD INTERIM ORDERS directing the 3rd respondent Joint Director herein to provisionally approve forthwith the promotion of the junior Assistants in the petitioners college viz. T.Antony Dhanasekaran and Sr.F.Arockia Mary from the date of their promotions viz., 02.04.2012 and disburse the grant-in-aid towards their salary and allowances, within a reasonable time as may be specified by this Hon'ble Court.

For Appellants : Mr.S.Dhayalan
Government Advocate
For Respondent : Ms.Amala
For M/s.Isaac Chambers

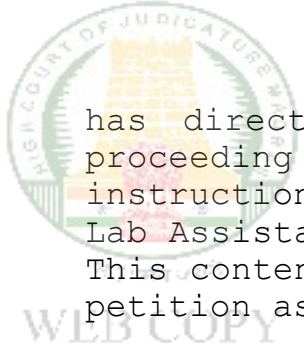
JUDGMENT

(Judgment of this Court was delivered by T.S.SIVAGNANAM, J)

Heard Mr.S.Dhayalan, learned Government Advocate appearing for the appellants and Mr.Amala for Mr.Isaac Mohanlal, learned counsel appearing for the respondent/caveator.

2.This appeal is directed against the interim order granted in W.P(MD).No.21152 of 2015, dated 27.11.2015. The writ petition was filed by the respondent seeking to quash the order passed by the third appellant dated 29.10.2013, by which, the approval of the appointment of the writ petitioner as Junior Assistant, was rejected. The respondent/writ petitioner also sought for a consequential direction to approve appointment forthwith and disburse the grant-in-aid towards their salary and allowances with effect from the date of promotion dated 02.04.2012. Pending disposal of the said writ petition, the respondent/writ petitioner sought for virtually and identical prayer as that of the consequential prayer in the main writ petition and the Court by the impugned order ordered that the interim direction is granted as prayed for. However, we find that the notice has been ordered in the miscellaneous petition as well as the writ petition and the matters are pending. Therefore, we are of the considered view that the direction issued by the Writ Court is only an interim direction and the appellants are entitled to contest the case before the Writ Court by filing a counter affidavit and also seeking for vacating/modifying the interim direction already granted.

<https://hcservices.ecourts.gov.in/hcservices/>
Heard Mr.S.Dhayalan, learned Government Advocate appearing for the appellants would submit that in the letter, dated 14.08.2013 addressed to the Regional Joint Director of Collegiate Education who



has directed necessary action should be taken, pursuant to the proceeding of the Director of Collegiate Education and strict instructions were given to adhere to the same while promoting the Lab Assistant as Junior Assistant, as both have identical pay scale. This contention can very well be contested in both the miscellaneous petition as well as the writ petition which is pending.

4. Accordingly, the writ appeal is disposed of with liberty to the appellants to approach the Writ court by filing a counter affidavit and seek for modifying or vacating the interim direction already issued. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub-Assistant Registrar

To

1. The Secretary to Government,
Higher Education Department,
Fort St. George,
Chennai-9.

2. The Director of College Education,
College Road,
Chennai-6.

3. The Joint Director of Collegiate Education,
Madurai Region.

+One cc to M/s. Isaac Chamber, Advocate, SR.No.48717

+One cc to The Special Government Pleader, SR.No.48820

mrn/rmk
RL/6C/3P/SKN/RSK/SAR2/14/3/2018

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