



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.2477 of 2018

Dr.Asaithambi Dawson

.. Petitioner

Vs.

1. The Director of Collegiate Education,
College Road, Chennai - 6.
2. The Regional Joint Director of Collegiate Education,
Tirunelveli Region,
Tirunelveli - 8, Tirunelveli District.
3. The Principal,
Nazareth Margoschis College,
Pillayanmanai,
Nazareth, Thoothukudi District.
4. Nazareth Margoschis College,
Pillayanmanai,
Nazareth, Thoothukudi District,
Represented by its Secretary.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the second respondent in Na.Ka.No.7106 / 1 / 2017 dated 21.12.2017 and to quash the same and consequently direct the respondents to reemploy the petitioner in service as Associate Professor of commerce in fourth respondent college till the end of the academic year 2017-2018 i.e up to 31.05.2018 with effect from 01.07.2017 with all service and monetary benefits.

For petitioner

: Mr. V.Kannan

For R-1 & R-2

: Mr. J.Guanseelan Muthiah

Additional Government Pleader

For R-3 & R-4

: Mr.T.A.Ebenezer

O R D E R

The petitioner was employed as Associate Professor in the Government College. He reached the age of superannuation on 30.06.2017. Claiming the benefit of re-employment, the



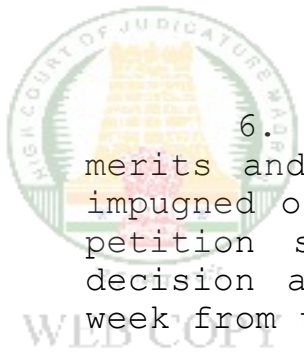
petitioner made a request. The same was, however, not recommended by the College management.

2. The second respondent, by impugned order dated 21.12.2017, rejected the petitioner's request for re-employment, on the ground that proper proposals were not received from the College management. The impugned order rejection dated 21.12.2017, is assailed in this writ petition.

3. Heard the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the respondents 1 and 2. The learned counsel appearing for the respondents 3 and 4 wanted time to file his counter affidavit.

4. This is a case of re-employment for the period from 01.07.2017 to 31.05.2018. Therefore, in a case of this nature, the contesting respondents will have to assist this Court by filing their pleadings on the hearing date. In this case, when the writ petition came up for hearing on 07.02.2018, it was adjourned to 21.02.2018. It is seen that the learned counsel for the petitioner took private notice immediately and it was served on the College management on 10.02.2018. Therefore, it is not open to the College management to simply enter appearance on 21.02.2018 and seek time to file counter. 11 days is a sufficient for preparing the counter affidavit. Therefore, considering the urgency of the matter and the fact that the College management had sufficient time, the request for adjournment is rejected.

5. This Court had already held that the Regional Joint Director is the competent authority to take a decision in the matter of re-employment of a teacher, who retires in the middle of the academic year. It was held in the decision reported in 2015 WLR 1063 - (Theagaraya College, Old Washermanpet, Chennai - 600 021 and another Vs. Veerappan and others) that the Management is under an obligation to submit all the information while recommending for granting or non-granting reemployment to the concerned staff. The competent authority will necessarily take into account the objection submitted by the Management and thereafter pass a speaking order. In this case, the College Management has clearly indicated that it is not recommending the petitioner for re-employment. The request of the petitioner for reemployment is before the second respondent. The second respondent must take a decision one way or the other by passing a speaking order. In this case the second respondent has rejected the petitioner's request only on the ground that a formal proposal has not been received from the College Management. Such a reason is patently un-sustainable in law. The College management has clearly indicated that it has not recommended the case of the



6. Therefore, the second respondent shall pass an order on merits and in accordance with law. The reasons set out in the impugned order are unsustainable. The order impugned in the writ petition stands quashed. The second respondent shall take a decision afresh in accordance with law, within a period of one week from today.

7. This Writ Petition is allowed accordingly. No costs.

Sd/-
Assistant Registrar(P&A)

/True copy/

Sub Assistant Registrar

To:

1. The Director of Collegiate Education,
College Road, Chennai - 6.
2. The Regional Joint Director of Collegiate Education,
Tirunelveli Region,
Tirunelveli - 8, Tirunelveli District.

+1. CC to M/S.T.A.EBENEZER, Advocate SR.No.50101
+1. CC to M/S.V.KANNAN, Advocate SR.No.50073
+1. CC to Special Government Pleader, SR.No.50553

ORDER MADE IN
W.P. (MD) No.2477 of 2018
21.02.2018

kmi
MKV-CM-SAR 1/22.2.2018/3P-6C