



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 05.03.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

W.P (MD) No.1286 of 2014

and

MP (MD) Nos.1 & 2 of 2014

R.Soundararajan

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep.by its Secretary to Government,
Department of Higher Education,
Chennai - 9.
- 2.The Director of Collegiate Education,
College Road, Chennai -6.
- 3.The Regional Joint Director of
Collegiate Education,
Trichy Region, Race Course Road,
Trichy - 20.
- 4.The Secretary, National College,
(A Unit of Academy of Higher
Education),
Trichy District.

... Respondents

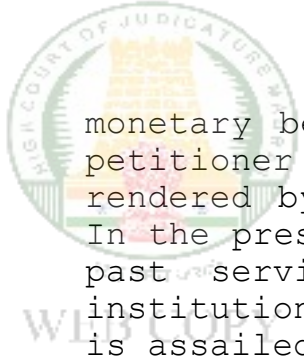
PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order issued by the third respondent in his proceedings Na.Ka.No.8243/E2/2013 dated 02.01.2014 and quash the same as illegal and consequentially to direct the third respondent to consider the service rendered by the petitioner between 29.09.1988 and 11.06.2001 in self-financing Colleges for the purpose of Career Advancement Scheme.

For Petitioner : Mr.C.Venkatesh Kumar
for M/s.Ajamal Associates

For Respondents : Mr.K.Saravanan,
Government Advocate
for R1 to R3
No appearance for R4

ORDER

The petitioner is presently working in the fourth respondent college as Assistant Professor. The petitioner seeks conferment of



monetary benefits in terms of the Career Advancement Scheme. The petitioner will be entitled to such conferment if the past services rendered by him in two other educational institutions are counted. In the present case, the third respondent declined to count the said past services put in by the petitioner in other educational institutions and issued the impugned order to that effect. The same is assailed in this writ petition.

2.The case of the petitioner is that the authority erred in making a distinction between the Government Colleges and the Private Colleges. He drew the attention of this Court on G.O.Ms.No.373, Higher Education (H1) Department dated 14.11.2006. It is stated that previous service, without any break as a Lecturer or equivalent in a University, Colleges, National Laboratory or other scientific organizations should be counted for placement of lecturer in Senior Scale/Selection Grade.

3.The specific contention urged by the learned counsel appearing for the petitioner is that the said Government Order has employed the expression "College". According to him, the authority erred in coming to the conclusion that the petitioner's past services will not be counted merely because it was rendered in a private college.

4.This Court finds considerable force in the said submission. However, it is seen that the very same Government Order prescribes six other conditions : They are as follows :

- (i)The post was in an equivalent grade / scale of pay as the post of a Lecturer.
- (ii)The qualifications for the post were not lower than the qualifications prescribed by the University Grants Commission for the Post of Lecturer.
- (iii)The candidates who apply for direct recruitment should apply through proper channels;
- (iv)The concerned Lecturers possessed the minimum qualifications prescribed by the University Grants Commission for appointment as Lecturers;
- (v)The post was filled in accordance with the prescribed selection procedure as laid down by the University / State Government / Central Government / Institution's regulations.
- (vi)The appointment was not adhoc or in a leave vacancy of less than one year duration. Adhoc service of more than one year duration can be counted provided.
 - a) the adhoc service was of more than one year duration.
 - b) the incumbent was appointed on the recommendation of duly constituted Selection Committee, and
 - c) the incumbent was selected to the permanent post in constitution to the adhoc service, without any break.



5. In the present case, the petitioner has not shown that he fulfils those six conditions set out in the said Government Order. This Court is of the view that the petitioner should be given one more opportunity to satisfy the third respondent that all the six conditions set out therein were fulfilled by him.

WEB COPY

6. It is made clear that the petitioner's case will not be rejected on the ground that the services put in by him were in private colleges. The authority must examine if those six conditions set out in the said Government Order are fulfilled or not. The order impugned in this writ petition is quashed. The petitioner is permitted to submit a fresh representation to the third respondent establishing the fulfillment of the aforesaid six conditions. Upon receipt of such representation from the petitioner, the third respondent shall pass fresh orders afresh in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

7. This writ petition is partly allowed as indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
State of Tamil Nadu,
Department of Higher Education,
Chennai - 9.
2. The Director of Collegiate Education,
College Road, Chennai - 6.
3. The Regional Joint Director of
Collegiate Education,
Trichy Region, Race Course Road,
Trichy - 20.

+1cc to M/s. Ajamal Associates, Advocate, SR.No.53141.
+1cc to Special Government Pleader, SR.No.53330.

W.P (MD) No.1286 of 2014

and

MP (MD) Nos.1 & 2 of 2014

05.03.2018

s km

<https://hcservices.ecourts.gov.in/hcservices/>

RAM/SV MMS/SAR 3/28.06.2018/3P/6C