



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.12.2018

CORAM

THE HON'BLE Mr.JUSTICE R.SUBRAMANIAN

W.P.(MD) No.12783 of 2017

and

W.M.P.(MD) .Nos.9885 & 9886 of 2017

G.Angamuthu

... Petitioner

-vs-

1. The State of Tamil Nadu,
represented by its Secretary to Government,
Higher Education (G2) Department,
Secretariat, Chennai-600 009.

2. The Joint Director of Collegiate Education,
Madurai Region, Madurai-625 002.

3. The Vivekanda College,
Represented by its Secretary,
Tiruvedakam West,
Solavanthan Post,
Madurai District.

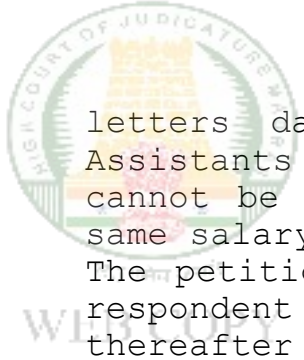
... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the second respondent in his proc.ந.க.எண்.10149/ஆ1/2016 dated 02.12.2016 and quash the same as illegal and consequently to direct the second respondent to approve the appointment of the petitioner as Junior Assistant with effect from 01.09.2016.

For Petitioner : Mr.H.Mohamed Imran
for M/s.Ajmal Associates
For R1 & R2 : Mr.A.Muthu Karuppan
Additional Government Pleader
For R3 : No Appearance

O R D E R

The petitioner challenges the order of the Joint Registrar of Collegiate Education / second respondent herein, rejecting the claim of the third respondent College for approval of the transfer of the petitioner from the post of Lab Assistant to Junior Assistant. The reason given for such rejection is that the Government, by its



letters dated 14.08.2013 and 18.09.2013 directed that the Lab Assistants working under the Tamil Nadu Ministerial Service Rules cannot be promoted as Junior Assistant since they are drawing the same salary. In the case on hand, the facts are slightly different. The petitioner, who was working as Library Assistant in the third respondent College, was promoted as Lab Assistant on 02.01.2012 and thereafter promoted as Junior Assistant from 01.09.2016.

2.Mr.H.Mohamed Imran, learned counsel appearing for the petitioner would contend that the letters relied upon by the respondents cannot govern the case of the petitioner since his services are governed the Tamil Nadu Private Colleges (Regulation) Act, 1976. The Government letters are applicable only to the persons working under the Tamil Nadu Ministerial Services. In support of his contention, the learned counsel relied upon the Judgment of the learned Single Judge of this Court reported in **2002 (3) CTC 336-(S.Mohamood Basha Vs. The Director of Collegiate Education)**, wherein, a learned Single Judge had held that the Tamil Nadu Private Colleges Regulation Act is a self contained code. The Tamil Nadu State and Subordinate Service Rules will not have any statutory force insofar as the persons employed in the private colleges are concerned.

3.The said judgment was followed by another learned Single Judge of this Court in **W.P. (MD).No.5583 of 2010-(T.Nirmala Devi Vs. The District Elementary Educational Officer and others)**. It is also contended by the learned counsel appearing for the petitioner that the above judgment has also been confirmed by the Division Bench of this Court in W.A.(MD).No.1013 of 2017.

4.In view of the same, the letters dated 14.08.2013 and 18.09.2013 cannot be considered as having statutory force, so as to bar promotion of Lab Assistant working in Private Colleges as Junior Assistants. Unless, it is shown that the promotion is not within the sanctioned strength of the institution, the authorities cannot deny the approval.

5.In view of the above, the order impugned in the Writ Petition dated 02.12.2016 is quashed. The Writ Petition stands allowed. There will be a direction to the respondents to accord approval to the promotion of the petitioner as Junior Assistant with effect from the date of his promotion within a period of four weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

/True Copy/



To

1. The Secretary to Government,
State of Tamil Nadu,
Higher Education (G2) Department,
Secretariat, Chennai-600 009.

2. The Joint Director of Collegiate Education,
Madurai Region, Madurai-625 002.

+ 1 CC TO M/s.AJMAL ASSOCIATES, IN SR No. 101343
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 101294

TSG

TE/BK/SAR-1 : 24/12/2018 : 3P/5C

W.P. (MD) No.12783 of 2017
19.12.2018