

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.2676 OF 2019

R.Sabu

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Petitioner

Vs

1.The Director of Collegiate Education,
College Road, Chennai 600 006.

2.The Joint Director Collegiate Education
Tirunelveli Region, Tirunelveli.

3.The Secretary-cum-Correspondent
Nesamony Memorial Christian College,
Marthandam.

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Respondents

Prayer :

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the 1st and 2nd respondent to approve the petitioner appointment as Waterman in the 3rd respondent College in the sanctioned vacancy caused by the Promotion of Mr.K.Francis with effect from 06.11.2010 in the light of the order passed in W.A. (MD) Nos.461 and 462 of 2016 dated 22.04.2016 and in Special Leave petition No.22766 of 2017 dated 12.10.2018 with monetary and all other attendant and service benefits based on the representation of the petitioner dated 25.10.2018.

For Petitioner : Ms.A.V.Bharathi

For RR 1 & 2 : Ms.P.Kavitha, Government Advocate

For R3 : Mr.E.Martin Jayakumar

O R D E R

By the proceedings of the first respondent dated 08.01.1980, the third respondent college, which is a Government Aided College was sanctioned with teaching and non teaching posts under the aided scheme. The petitioner was appointed on 06.11.2010, as Waterman in the third respondent college in the

promotion vacancy. Thereafter, the third respondent college sent a proposal to the first respondent through the second respondent on 12.01.2018, seeking approval for the above appointment. However, no order was passed by the first respondent till date. The petitioner also made a representation to the first respondent dated 25.10.2018, which is also not considered till date and hence the petitioner filed the present writ petition for appropriate relief.

2. Learned counsel for the petitioner submits that by G.O.Ms.No.219 Higher Education(D1) Department dated 24.10.2013, the Government had sanctioned only 50% of the posts to the government aided institutions. The said Government order was challenged in W.P.Nos.6679 and 6680 of 2016 and this Court by an order dated 24.11.2017, set aside the abovesaid Government Order. Learned counsel further submits that several writ petitions were filed before this Court, challenging the rejection order passed by the Joint Director of Collegiate Education based on the G.O.Ms.No.219 and the said writ petitions were allowed. The Writ Appeals filed by the Government in W.A (MD) Nos.461 and 462 of 2016, challenging the said orders were dismissed by order dated 22.04.2016. The Government further challenged the judgment of the Division Bench before the Supreme Court in S.L.P.No.22766 of 2013, which was also dismissed by the Supreme Court. Hence, the learned counsel seeks the intervention of this Court by directing the first respondent to approve the appointment of the petitioner in the light of the recommendation sent by the third respondent dated 12.01.2018.

3. Ms.P.Kavitha, learned Government Advocate takes notice on behalf of the respondents 1 and 2 and Mr.Martin Jayakumar, takes notice on behalf of the third respondent.

4. In the light of the fact that the issue in this writ petition has already been covered by the judgment of this Court, the first respondent is directed to consider the proposal given by the third respondent college dated 12.01.2018 with respect to the approval of the appointment of the petitioner in the sanctioned vacancy, and pass orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//
Sub Assistant Registrar

KST

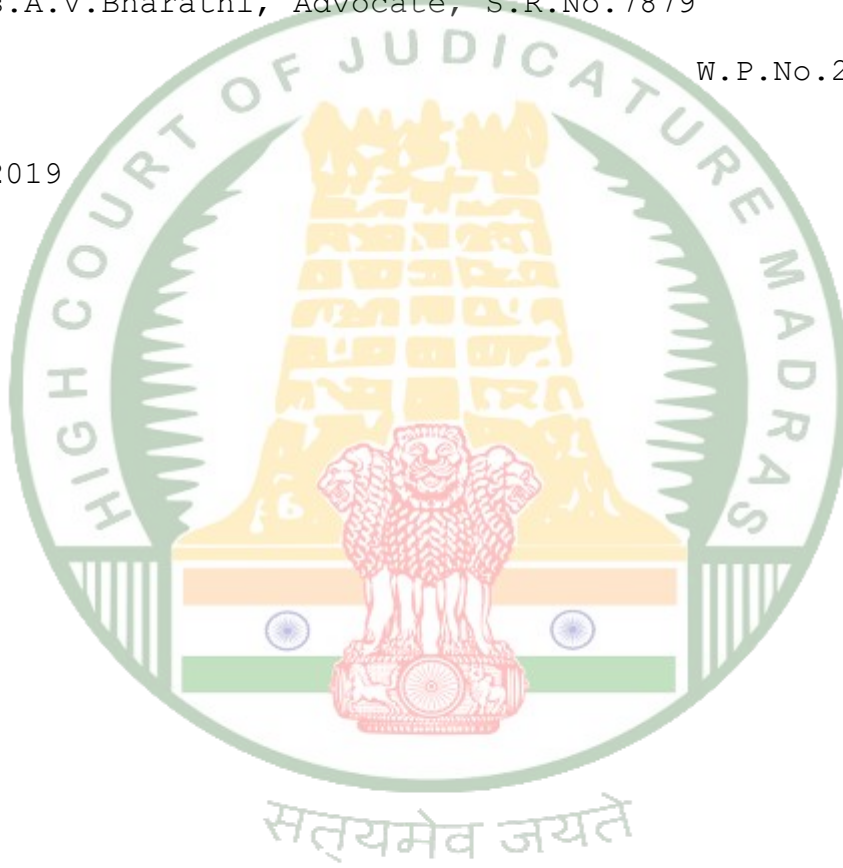
To

- 1.The Director of Collegiate Education,
College Road, Chennai 600 006.
- 2.The Joint Director Collegiate Education
Tirunelveli Region, Tirunelveli.
- 3.The Secretary-cum-Correspondent
Nesamony Memorial Christian College,
Marthandam.

+1cc to Ms.A.V.Bharathi, Advocate, S.R.No.7879

W.P.No.2676 of 2019

RK (Co)
CS/07/03/2019



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