

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :17.09.2019
CORAM
THE HON'BLE MR.JUSTICE M.DHANDAPANI
W.P.No. 19780 of 2019

Mrs.D.Ajith Sims

..Petitioner

Vs

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

2. The Joint Director of Collegiate Education,
Thirunelveli Region,
Thirunelveli.

3. The Secretary,
Scott Christian College,
Nagercoil.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ order or direction in the nature of writ of Mandamus, directing the 1st respondent herein to approve and regularize the petitioner's appointment as Assistant Professor in Economics in the 3rd respondent College, in the Sanctioned Work Load vacancy with effect from 18.07.2014 in the light of the approval given by the 1st respondent to the similarly placed persons viz., Tmt. T.Angel Glory Bai in R.C.No. 33891/F4/93 dated 04.11.1996 and Dr.T.H. Issac Samuel Nayagam in Na.Ka.No. 54404/F4/93 dated 20.12.2012 in W.P.No. 11546 of 1997 dated 23.12.2009 monetary, service and all other benefits based on the representation dated 13.08.2018 given by the petitioner.

For Petitioner : M/s.A.V.Bharathi
For Respondents : Mr.V.Kadirvelu,
Special Government Pleader.

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O R D E R

The prayer sought for herein in this Writ Petition is for issuance of a Writ of Mandamus, directing the 1st respondent herein to approve and regularize the petitioner's appointment as Assistant Professor in Economics in the 3rd respondent College, in the Sanctioned Work Load vacancy with effect from 18.07.2014 in the light of the approval given by the 1st respondent to the similarly placed persons viz., Tmt. T.Angel Glory Bai in R.C.No.

33891/F4/93 dated 04.11.1996 and Dr.T.H. Issac Samuel Nayagam in Na.Ka.No. 54404/F4/93 dated 20.12.2012 in W.P.No. 11546 of 1997 dated 23.12.2009 monetary, service and all other benefits based on the representation dated 13.08.2018 given by the petitioner.

2. The case of the petitioner is that the petitioner was fully qualified as per UGC Norms and he was appointed as Assistant Professor in Economics in 3rd respondent College with effect from 18.07.2014 in the sanctioned Work Load vacancy by virtue of the appointment order issued by the Secretary of the 3rd respondent College. The said appointment was made by the management of the 3rd respondent

College in the sanctioned work load post and the petitioner have not been paid salary from the management funds.

3. The learned counsel appearing for the petitioner would submit that in the proceedings of the Director of Collegiate Education, Chennai - 600 006, viz., Pa.Mu.No.42095/F4/99, dated 12.10.1999, permission has been granted to fill up the vacancies that arose in the vacant posts for the year 1999-2000 on or before 31.03.2000. In the said proceedings the number of sanctioned posts of Assistant Professor in Economics for the year 1999-2000 has been set out as 10. Thereafter, the 1st respondent constituted the Work Load Committee to inspect the 3rd respondent college and given a workload report stating that there is a need of an additional staff to the 3rd respondent college as per the workload in the department of Economics. The petitioner have been appointed by the college Committee in the sanctioned work load vacancy as Assistant Professor in Economics in the 3rd respondent College.

4. The learned counsel appearing for the petitioner would further submit that it is important to point out that there is one additional post needed for the 3rd respondent College in the welfare of the student as per the work load committee report in the department of Economics. The Secretary of the 3rd respondent College has sought for approval of the work load vacancies of Assistant Professors, which arose in the year 2007 to 2017 and also sent a letter to the 1st & 2nd respondents stating that the petitioner has been appointed in the sanctioned work load vacancy and requested for approval of the said post of Assistant Professor in Economics and the same is pending till date.

5. There is no provision either in the Tamil Nadu Private Colleges (Regulation) Act, 1976 or in the Tamil Nadu Private Colleges (Regulation) Rules, 1976, which says that prior permission has to be obtained from the Director of Collegiate Education before filling up a vacant sanctioned post. The

provision dealing with fixation of staff strength in the Tamil Nadu Private Colleges (Regulation) Rules, 1976 is rule 11(1). Further this position is fortified in the Judgment reported in 2013 (7) MLJ 641, P.Ravichandran Vs The State of Tamil Nadu & others. There is no necessity to obtain prior approval from the Director of Collegiate Education in respect of filling up a vacancy arising out of a work load vacancy. The petitioner has been working without salary from the date of his appointment in the work load vacancy from 18.07.2014. Therefore it is just and necessary that approval be granted by the respondent for his appointment as Assistant Professor in Economics in the 3rd respondent College with effect from 18.07.2014.

6. Similarly placed persons like his namely Tmt. T.Angel Bai appointment was approved by the 1st respondent in Rc.No. 33891/F4/93 dated 04.11.1996 and Dr.T.H. Issac Samuel Nayagam appointment was also approved by the 1st respondent in Na.Ka.No. 54404/F2/2011 dated 20.12.2012 based on the order passed by this Court in W.P.No. 11546 of 1997 dated 23.12.2009. Hence it is pertinent to point out that from the above stated precedent, it is crystal clear that his service should also be approved from the date of appointment by the 1st respondent. But till date the respondents have not approved his service from the date of his appointment. Hence the petitioner made a representation to the 1st respondent dated 13.08.2019 and the representation is not considered.

7. The learned counsel for the petitioner would now submit that it would suffice if this Court issues direction to the 1st & 3rd respondent to consider the petitioner's representation dated 13.08.2018 within a time frame.

8. Without expressing any opinion on merits, I am inclined to issue a direction to the 1st & 3rd respondent to dispose of the Writ Petitioner's representation dated 13.08.2018, within a period of twelve weeks from the date of receipt of a copy of this order. With the above direction, the Writ Petition is disposed of. No costs.

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Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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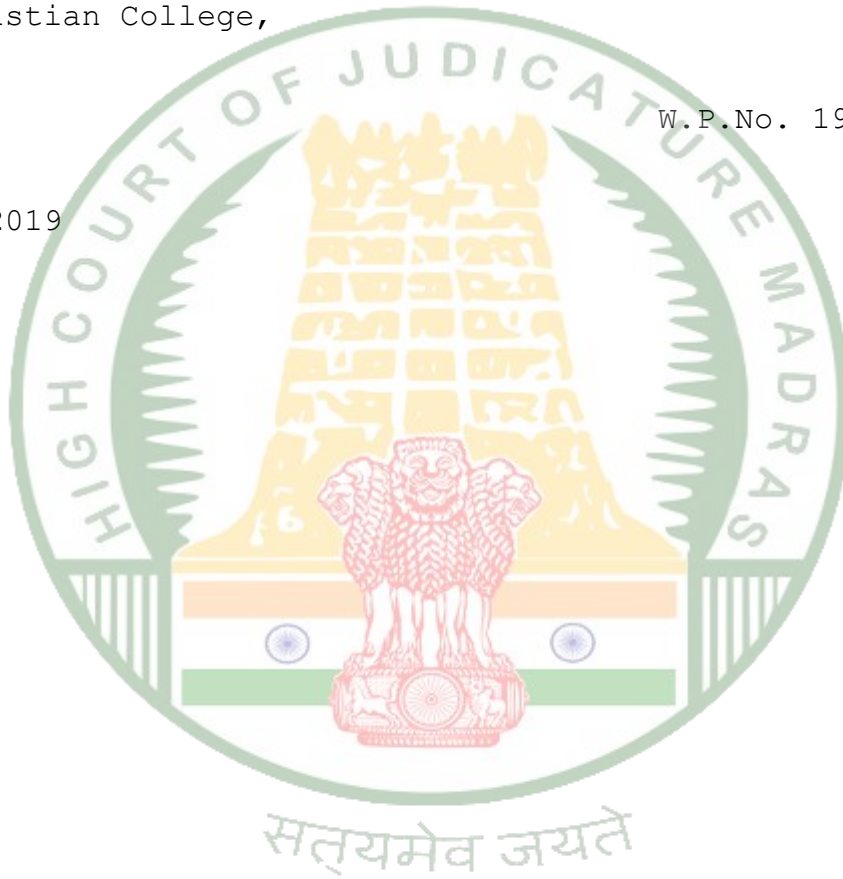
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sj(co)
nr 16/12/2019



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