

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.Nos.25866 and 25870 of 2019
and WMP.Nos.25312 and 25316 of 2019

Dr.Annie Rubens ... Petitioner in W.P.No.25866 of 2019
Mrs.R.Preetha ...Petitioner in W.P.No.25870 of 2019

-Vs-

1. The State of Tamil Nadu,
Rep. by its Secretary
Department of Higher Education,
Fort St.George,
Chennai-600 009.
2. The Director of Collegiate Education,
College Road,
Chennai-600 006.
3. The Joint Director of Collegiate Education,
Chennai Region,
Chennai 600 015.
4. The University of Madras,
Rep. by its Registrar,
Centenary Building,
Chennai 600 005.
5. The Principal & Secretary,
Women's Christian College,
College Road,
Chennai-600 006. ... Respondents in both W.Ps.

W.P.No.25866 of 2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 2 & 3 herein to approve forthwith the petitioner's appointment as Assistant Professor in Advanced Zoology & Biotechnology in the 5th respondent College for the period of ten years, three months and twenty five days (from the date of joining service i.e., from 13.06.2007 to 08.10.2017) and sanction the attendant benefits thereof including salary, service and allowances for the said period.

W.P.No.25870 of 2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 2 & 3 herein to approve forthwith the petitioner's appointment as Assistant Professor in Home Science in the 5th respondent College for the period of twelve years, four months and two days (from the date of joining service i.e., from 16.06.2005 to 08.10.2017) and sanction the attendant benefits thereof including salary, service and allowances for the said period.

(in both W.Ps.)

For Petitioners : Mr.M.Karunanidhi

For RR1 to 3 : Mr.V.Kadhirvel
Special Government Pleader

For R4 : Mr.L.P.Shanmuga Sundaram
Standing Counsel

For R5 : Mr.P.Godson Swaminathan

COMMON ORDER

The issues involved in both the writ petitions is common and therefore both writ petitions are taken up together for final disposal. On the consent given by the counsel appearing for the respective parties, these writ petitions have been taken up for final hearing at the admission stage itself.

2.The petitioners are working as Assistant Professors in various departments in the 5th respondent College. The College in question is a recognized religious Minority Educational Institution. The petitioners claimed that they were appointed to the post of Assistant Professors during the year 2007 and 2005 respectively. The petitioners also claim that they have passed the State Level Screening Test (SLST) and National Entrance Test (NET) conducted by University Grants Commission (UGC). After the appointment of the petitioners, the 5th respondent College sought for approval from the 4th respondent viz., University of Madras and the 4th respondent has granted approval with effect from the date of appointment by each of the petitioners. The further case of the petitioners is that the appointment was done against the vacancy that arose in a sanctioned post. The petitioners after joining duty have been in continuous and uninterrupted service till date. The approval for the appointment was forwarded to the Joint Director of Collegiate Education for the purpose of disbursing the grant-in-aid. The grievance of the petitioners is that the approval was not granted from the date of joining of the respective petitioners

and it was given only effect from later date and as a result of it, each of the petitioner was denied the service benefit for nearly ten to twelve years respectively.

3.It is further brought to the notice of this Court, that the 5th respondent College has sent various representations to respondents 1 to 3 in this regard to rectify the anomaly that has taken place and to give approval for the appointment from the date of joining of the respective petitioners. In spite of receipt of the representations, no action has been taken by the respondents 1 to 3 and therefore, the present writ petitions have been filed before this Court.

4.The learned counsel appearing on behalf of the 5th respondent submitted that the 5th respondent College has been repeatedly approaching the concerned authorities to correct the anomaly that has taken place in the grant of approval by the 3rd respondent and till date no decision has been taken. The learned counsel further submitted that the Assistant Professors who are the petitioners in these writ petitions have been denied the service benefits for a considerable period of time ranging from 10 to 12 years due to the fact that the approval was not given from the date of joining the said post.

5.The learned counsel appearing on behalf of respondents 1 to 3 submitted that the representations made by the 5th respondent College will be considered within a time that may be fixed by this Court and final orders will be passed.

6.Heard the learned counsel appearing on either side and perused the materials placed on record.

7.Considering the facts and circumstances of the case and also of the fact that a very limited issue is involved in these writ petitions, which can be decided by the official respondents, these writ petitions can be disposed of by giving appropriate directions to the respondents to pass orders on the various representations/requests made by the 5th respondent College.

8.Both the writ petitions are disposed of with a direction to the 2nd and 3rd respondents to take into consideration the various representations that have been made by the 5th respondent College and pass orders with regard to granting approval of the appointment of the Assistant Professors/petitioners from the date of their joining the post, strictly within a period of 12 weeks from the date of receipt of copy of this order. It is left open to the 2nd and 3rd respondents to call for necessary particulars from the 5th respondent before passing the orders. The 5th respondent is directed to make a fresh representation to

the 2nd and 3rd respondent by giving all the particulars along with a copy of the earlier representations made by them and also a copy of this order. There shall be no order as to costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Secretary
State of Tamil Nadu,
Department of Higher Education,
Fort St.George,
Chennai-600 009.
2. The Director of Collegiate Education,
College Road,
Chennai-600 006.
3. The Joint Director of Collegiate Education,
Chennai Region,
Chennai 600 015.
4. The Registrar,
University of Madras,
Centenary Building,
Chennai 600 005.
5. The Principal & Secretary,
Women's Christian College,
College Road,
Chennai-600 006.
6. The Public Prosecutor,
High Court, Madras.

W.P.Nos.25866 and 25870 of 2019
and
WMP.Nos.25312 and 25316 of 2019

jp[co]
srg 04/02/2020