

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 26.03.2019

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE R.MAHADEVAN**W.P(MD)No.5983 of 2015**
and M.P(MD)No.1 of 2015

Gayathiri Kumar

... Petitioner

Vs.

- 1.The Joint Director of School Education,
Nungambakkam High Road,
Nungambakkam,
Chennai.
- 2.The Chief Educational Officer,
Tiruchirappalli.
- 3.The District Educational Officer,
Office at Girls Higher School,
Thathaiyengarpettai Road,
Musiri, Tiruchy District.
- 4.The Nehru Educational Society,
Puthanampatti,
Trichy District,
Rep. by its Secretary.
- 5.Nehru Higher Secondary School Committee,
Rep. by its Secretary,
Puthanampatti,
Trichy District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the third respondent to pay salary to the petitioner as that of a scale of a Post Graduate Assistant commensurate with his years of qualification.

For Petitioner : Mr.V.Singan
For RR 1 to 4 : Mrs.S.Srimathy,
Special Government Pleader.

For R - 5 : Mr.G.Shanmuganathan

**ORDER**

This writ petition has been filed seeking a direction to the third respondent to pay salary to the petitioner as that of a scale of a Post of Graduate Assistant in commensurate with his year of qualification.

WEB COPY

2. Heard the learned counsel appearing for the petitioner and the special Government Pleader appearing for the respondents 1 to 4 and the learned counsel appearing for the fifth respondent.

3. The case of the petitioner is that though he was appointed in the sanctioned post as a Post Graduate Assistant with effect from 01.06.2011, inspite of repeated representations, the respondents 1 to 3 till date, have not granted approval to the appointment of the petitioner. Hence, the petitioner has filed the present Writ Petition.

4. The learned counsel appearing for the petitioner submitted that the issue involved in the Writ Petition is covered by the order of this Court reported in **2011 (5) CTC 532 (S.Christy Vs. The Chief Educational Officer and others)**, wherein, this Court, while relying on the provisions of the Tamil Nadu Private Colleges (Regulation) Rules, 1976, has held as follows:-

"This Rule is pari materia to Rule 11 of the Tamil Nadu Private Colleges (Regulation) Rules, 1976. This Rule was interpreted by this Court in W.A.Nos.93 and 94 of 2008 decided on 06.01.2010, wherein, it has been held that for any sanctioned post no prior approval is necessary. The relevant portion of the Judgment reads as under:-

"The learned Single Judge, has dealt with both the above said Writ Petitions together and by following the decision of this Court rendered in W.P.No.28396 of 2004, dated 29.03.2006, the learned Judge has categorically held that once appointment of a person in a sanctioned post is made in accordance with law, no prior permission from the Director of Collegiate Education is required. While holding so, the learned Judge has quashed the impugned proceedings, dated 28.02.1997 and directed the appellants to approve the writ petitioner's (C.Karunakaran's) appointment from 02.07.1990 with all consequential benefits."

5. In view of the settled law by this Court, the stand taken by the respondent in not considering the case of the petitioner for granting approval of the petitioner is not sustainable in law, as on true interpretation of Rule 15, only conclusion which can be drawn is, that for appointment to sanctioned post, no prior approval is necessary, nor it can be a ground to deny the approval to appointment of a qualified person."



Thus, the learned counsel prayed for a similar order in this Writ Petition as well, for which, the learned Special Government Pleader appearing for the respondents 1 to 4 has no serious objection.

5. Following the abovesaid order, this Writ Petition is allowed and the respondents 1 to 3 are directed to verify and grant approval of the appointment of the petitioner forthwith along with all consequential benefits within a period of two months from the date of receipt of a copy of this order. No costs. consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

ps

To

1. The Joint Director of School Education,
Nungambakkam High Road,
Nungambakkam,
Chennai.
2. The Chief Educational Officer,
Tiruchirappalli.
3. The District Educational Officer,
Office at Girls Higher School,
Thathaiyengarpettai Road,
Musiri, Tiruchy District.
4. The Nehru Educational Society,
Puthanampatti,
Trichy District,
Rep. by its Secretary.
5. Nehru Higher Secondary School Committee,
Rep. by its Secretary,
Puthanampatti,
Trichy District.

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.57199

W.P (MD) No. 5983 of 2015
26.03.2019

PM(CO)

TR (30.04.2019) 3P 7C