



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.12.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DURAISWAMY

AND

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

W.A(MD)Nos.1560 and 1562 to 1564 of 2019

and

C.M.P(MD)No.12402 of 2019 in W.A(MD)No.1564 of 2019

against

WP(MD)Nos.14870 of 2016 and WP(MD)No.14946 of 2018

WP(MD)Nos.22304 and 22361 of 2019

WP(MD)Nos.14870 of 2016 and

WP(MD)Nos.14946 of 2018

W.A(MD)No.1560 of 2019:

Madhankumar

... Appellant/
Petitioner

Vs.

1.G.J.Leema Rose

... 1st Respondent/
Writ Petitioner

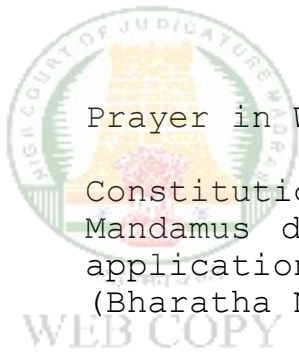
2.The Commissioner,
Department of Art & Culture,
Tamil Development Complex,
Egmore,
Chennai - 600 009.

3.The Regional Joint Director of Collegiate,
Education, Trichy Road,
No.7, Race Course Road,
Trichy - 625 020.

4.Kalai Kaveri College of Fine Arts,
represented by its
Secretary,
No.18, Benwells Road,
Trichy - 1.

... Respondents 2 to 4/
Respondents 1 to 3

Prayer : Appeal filed under Clause 15 of the Letters Patent, against the common order dated 22.10.2019 passed in W.P(MD)Nos.14870 of 2016 and 14946 of 2018.



Prayer in WP(MD). 14870/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the 1st respondent to approve the petitioner's application for the post of Assistant Professor in Classical Dance (Bharatha Natyam) in the college of the 3rd respondent.

Prayer in WP(MD). 14946/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents herein to approve the appointment of the petitioner as Assistant Professor in Dance (Bharathanattiyam) from 20.09.2016 as per the proposal sent by 3rd respondent dated 27.09.2016 with all monetary, attendant and service benefits.

For Appellant : Mr.V.Meenakshisundaram

For Respondents : Mr.Veera Kathiravan
Senior Counsel for
M/s.Veera Associates for R.1

Mr.J.Gunaseelan Muthiah
Additional Government Pleader for R.2

Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers for R.4

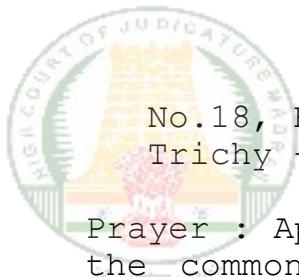
* * * * *

W.A(MD)No.1562 of 2019:

Madhankumar ... Appellant/
Petitioner

Vs.

- 1.The Commissioner,
Department of Art & Culture,
Tamil Development Complex,
Egmore,
Chennai - 600 009.
- 2.The Regional Joint Director of Collegiate,
Education, Trichy Road,
No.7, Race Course Road,
Trichy - 625 020.
- 3.Kalai Kaveri College of Fine Arts,
represented by its
Secretary,



No.18, Benwells Road,
Trichy - 1.

... Respondents/
Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent, against the common order dated 22.10.2019 passed in W.P(MD)Nos.22304 and 22361 of 2019.

WEB COPY

Prayer in WP(MD). 22304/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to call for the records pertaining to the proceedings in Procs.No.122/KKCFA/2016 dt.20/09/2016 of the 4th respondent and quash the same as illegal.

Prayer in WP(MD). 22361/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records records in respect of Lr.No.021/KKCFA/Relieving Order/16 dated 10th February 2016 on the file of the 3rd respondent and quash the same and direct the 3rd respondent to provide all attendant benefits to the petitioner herein and thus render justice.

For Appellant : Mr.V.Meenakshisundaram

For Respondents : M.J.Gunaseelan Muthiah
Additional Government Pleader for R.1
Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers for R.3
* * * * *

W.A(MD)No.1563 of 2019:

Madhankumar

... Appellant/
Petitioner

Vs.

- 1.The Commissioner,
Department of Art & Culture,
Tamil Development Complex,
Egmore,
Chennai - 600 009.
- 2.The Regional Joint Director of Collegiate,
Education, Trichy Road,
No.7, Race Course Road,
Trichy - 625 020.
- 3.The Registrar,
Tamil Nadu Music and Fine Arts Univesity,
Chennai.



4.The Secretary,
Kalai Kaveri College of Fine Arts,
No.18, Benwells Road,
Trichy - 1.

5.G.J.Leema Rose

... Respondents/
Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent, against the common order dated 22.10.2019 passed in W.P(MD)Nos.22304 and 22361 of 2019.

Prayer in WP(MD). 22304/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to call for the records pertaining to the proceedings in Procs.No.122/KKCFA/2016 dt.20/09/2016 of the 4th respondent and quash the same as illegal.

Prayer in WP(MD). 22361/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records records in respect of Lr.No.021/KKCFA/Relieving Order/16 dated 10th February 2016 on the file of the 3rd respondent and quash the same and direct the 3rd respondent to provide all attendant benefits to the petitioner herein and thus render justice.

For Appellant : Mr.V.Meenakshisundaram
For Respondents : M.J.Gunaseelan Muthiah
Additional Government Pleader for R.1

Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers for R.4

Mr.Veera Kathiravan
Senior Counsel for
M/s.Veera Associates for R.5
* * * * *

W.A(MD)No.1564 of 2019:

Madhankumar

... Appellant/
Petitioner

Vs.

1.The Commissioner,
Department of Art & Culture,
Tamil Development Complex,
Egmore,
Chennai - 600 009.

2.The Registrar,
Bharathidasan University,
Trichy.



3.The Secretary.

Kalai Kaveri College of Fine Arts,
No.18, Benwells Road,
Trichy - 1.

... Respondents/
Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent, against the common order dated 22.10.2019 passed in W.P(MD)Nos.14870 of 2016 and 14946 of 2018.

Prayer in WP(MD). 14870/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the 1st respondent to approve the petitioner's application for the post of Assistant Professor in Classical Dance (Bharatha Natyam) in the college of the 3rd respondent.

Prayer in WP(MD). 14946/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents herein to approve the appointment of the petitioner as Assistant Professor in Dance (Bharathanattiyam) from 20.09.2016 as per the proposal sent by 3rd respondent dated 27.09.2016 with all monetary, attendant and service benefits.

For Appellant : Mr.V.Meenakshisundaram

For Respondents : M.J.Gunaseelan Muthiah
Additional Government Pleader for R.1

Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers for R.3
* * * * *

COMMON JUDGMENT

[Judgment of the Court was delivered by **M.DURAISWAMY, J.**]

W.A.(MD)No.1560 of 2019 arises against the common order passed in W.P.(MD)No.14946 of 2018.

2. W.P.(MD)No.14946 of 2018 has been filed by the first respondent viz., G.J.Leema Rose to issue a writ of mandamus directing the respondents to approve the appointment of the petitioner as Assistant Professor in Dance (Bharathanattiyam) from 20.09.2016 as per the proposal sent by the third respondent dated 27.09.2016 with all monetary, attendant and service benefits.

3. W.A.(MD)No.1564 of 2019 arises against the common order passed in W.P.(MD)No.14870 of 2016.



4. The appellant filed the writ petition in W.P.(MD)No.14870 of 2016 to issue a writ of mandamus directing the first respondent to approve the petitioner's appointment for the post of Assistant Professor in Classical Dance (Bharatha Natyam) in the third respondent college.

5. W.A.(MD)No.1562 of 2019 arises against the order passed in W.P.(MD)No.22361 of 2019.

6. The appellant filed the writ petition in W.P.(MD)No.22361 of 2019 to issue a writ of certiorarified mandamus to call for the records in respect of letter dated 10th February 2016, on the file of the third respondent and quash the same and direct the third respondent to provide all attendant benefits to the appellant.

7. W.A.(MD)No.1563 of 2019 arises against the order passed in W.P.(MD)No.22304 of 2019.

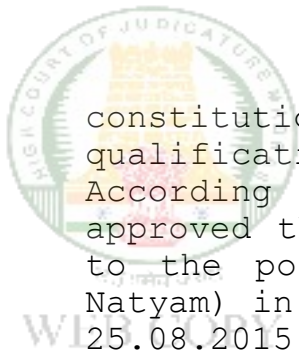
8. The appellant filed the writ petition in W.P.(MD)No.22304 of 2019 to issue a writ of certiorarified mandamus to call for the records pertaining to the proceedings dated 20.09.2016 of the fourth respondent and quash the same.

9. Since the issues involved in all these writ appeals are common, all the four writ appeals are disposed of by this common judgment.

10. Heard the submissions of the learned Counsel appearing on either side.

11. The learned Counsel appearing on either side submitted that if the writ appeal in W.A.(MD)No.1564 of 2019 is decided either way, the same would cover the other three writ appeals.

12. It is the case of the petitioner/appellant that he was fully qualified to be appointed as Assistant Professor and he joined as Lecturer in the third respondent college in Classical Dance Department on 27.12.2004. According to him, his educational qualification was approved by the second respondent. In the year 2009, 8 vacancies in the post of Assistant Professor arose in the third respondent College and a paper publication was effected on 30.12.2009. The petitioner/appellant also applied for the post of Assistant Professor and got selected by the Selection Committee constituted by the second respondent. The third respondent had appointed the petitioner/appellant on 01.07.2010 subject to the approval of the qualification by the second respondent and also the approval by the first respondent. Subsequently, the Tamil Nadu Government constituted a separate University for Music and Fine Arts



constitution of the University, the approval of the educational qualifications was sent to the University by the second respondent. According to the petitioner/appellant, the University had also approved the educational qualifications of the petitioner/appellant to the post of Assistant Professor in Classical Dance (Bharatha Natyam) in Government Aided quota of the third respondent college on 25.08.2015.

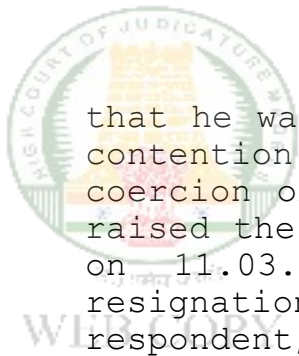
13. The petitioner/appellant contended that the Secretary of the third respondent College persuaded him to resign his post on the ground that various complaints had been received against him. Though the petitioner/appellant hesitated, subsequently the third respondent convinced the petitioner/appellant that there are some complaints against him and asked him to tender his resignation to put an end to all the complaints. Further the third respondent informed the petitioner/appellant that he is resigning the post only under the management quota. The third respondent would recommend his appointment order under Government aided quota. According to the petitioner/appellant, he believed the statement of the third respondent and had resigned his post on 11.01.2016. The third respondent also accepted the resignation on 10.02.2016 and relieved the petitioner/appellant from the post of the Assistant Professor with effect from 21.01.2016.

14. On 11.03.2016, the petitioner/appellant submitted a representation to the first respondent stating that he had resigned the post only on coercion of the third respondent. On 01.04.2016, the first respondent called for explanation from the third respondent College and on 18.04.2016, the third respondent College submitted their explanation to the first respondent. The third respondent contended that the petitioner/appellant had resigned voluntarily without any coercion by the third respondent. That apart, the petitioner/appellant also received all his original certificates submitted at the time of his appointment and as an after thought, he has given a letter dated 11.03.2016 to the first respondent stating that he resigned the post only under the coercion by the third respondent.

15. Mr.V.Meenakshi Sundaram, learned Counsel appearing for the appellant submitted that the appellant had resigned the post only under the coercion by the third respondent College and therefore, the first respondent should be directed to approve his appointment for the post of Assistant Professor in Classical Dance (Bharatha Natyam).

16. On a perusal of the affidavit filed in support of the writ petition, it could be seen that the appellant himself has stated that the third respondent persuaded him to resign his post and that the resignation letter will be used only for the management quota. Therefore, he tendered his resignation letter on 11.01.2016.

<https://hccourtsonline.gov.in/hccourtsonline/> the statement made by the appellant, it is clear



that he was convinced to submit his resignation on 11.01.2016. The contention of the third respondent College that there was no coercion on their side is supported by the fact that the appellant raised the issue that he was coerced to submit his resignation only on 11.03.2016 ie., two months after the submission of his resignation letter. If really the appellant was coerced by the third respondent, he would not have waited for to make complaint against the third respondent College with regard to the coercion. Without assigning any reason, the appellant kept quiet for two months for raising objections with regard to the resignation. After the resignation letter submitted by the appellant on 11.01.2016, the same was approved by the third respondent on 10.02.2016 and the appellant had received all the terminal benefits and his original certificates unconditionally. The first respondent considered all the materials and did not approve the appointment of the appellant.

17. The other contention of the learned Counsel for the appellant is that the third respondent had appointed the petitioner in W.P.(MD)No.14946 of 2018 erroneously without following due process. The learned Counsel submitted that without giving any advertisement calling for applications, she was appointed as Assistant Professor in the vacancy arose on the resignation of the appellant.

18. Mr.Veerakathiravan, learned Senior Counsel appearing for the third respondent College submitted that the College is a minority institution and therefore, there is no necessity for giving any paper publication calling for applications for the selection of Assistant Professors.

19. When there is no necessity for giving paper publication, the contention of the appellant that the appointment of G.J.Leema Rose is erroneous cannot be accepted.

20. The learned Single Judge, taking into consideration the case of both parties, rightly dismissed the writ petition in W.P.(MD)No.14870 of 2016 and disposed of W.P.(MD)No.14946 of 2019 by directing the first respondent to approve the appointment of G.J.Leema Rose as Assistant Professor and grant approval, if the petitioner is otherwise eligible. In W.P.(MD)No.22304 of 2019, the appellant had challenged the appointment of G.J.Leema Rose as Assistant Profesoor in W.P.(MD)No.22361 of 2019. The appellant had challenged the relieving order dated 10.02.2016 issued by the third respondent College.

21. In view of the dismissal of the writ petition in W.P.(MD) No.14870 of 2016 and a direction given in W.P.(MD)No.14946 of 2018, the learned Single Judge has rightly dismissed the writ petitions in W.P.(MD)Nos.22304 and 22361 of 2019. We do not find any ground to interfere with the orders passed by the learned Single Judge.



as to costs. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar (CS II)

WEB COPY

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

ssl

To

1.The Commissioner,
Department of Art & Culture,
Tamil Development Complex,
Egmore,
Chennai - 600 009.

2.The Regional Joint Director of Collegiate,
Education, Trichy Road,
No.7, Race Course Road,
Trichy - 625 020.

+1 CC to M/s.D.NALLATHAMBI, Advocate (SR-105655[F] dated 18/12/2019)

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-105870[F] dated 19/12/2019)

+2 CC to M/s.ISAAC CHAMBERS, Advocate (SR-105895[F] dated 19/12/2019)

W.A(MD)Nos.1560 and 1562 to 1564 of 2019

and

C.M.P(MD)No.12402 of 2019 in W.A(MD)No.1564 of 2019

18.12.2019

KK/SAR/09.01.2020/9P-7C/