



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.15013 of 2015
and
M.P. (MD) .No.1 of 2015

D.Helen

.. Petitioner

Vs.

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

2.The Joint Director of Collegiate Education,
Tirunelveli Region,
Tirunelveli - 627 002.

3.The Manonmaniam Sundaranar University,
rep. by its Registrar, Abhisekapatti,
Tirunelveli - 627 012.

4.The Correspondent / Secretary,
Women's Christian College,
Nagercoil - 629 001,
Kanyakumari District.

.. Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the first and second respondents to approve the appointment of the petitioner as the Assistant Professor / Lecturer in Chemistry in the 4th respondent - College for the period between 01.04.2007 and 24.08.2007 and disburse the grant-in-aid towards her salary with all attendant benefits.

For petitioner : Mr.S.Xavier Rajini

For respondents : Mr.P.Kannidevan,
1 & 2 & 4 Addl. Government Pleader

For 3rd respondent : Mr.M.Mahaboob Athiff
for M/s.Ajmal Associates



ORDER

This writ petition has been filed by the petitioner for a Writ of Mandamus directing the first and second respondents to approve the appointment of the petitioner as the Assistant Professor / Lecturer in Chemistry in the 4th respondent - College for the period between 01.04.2007 and 24.08.2007, and disburse the grant-in-aid towards her salary with all attendant benefits.

2. The learned counsel for the petitioner submitted that the petitioner was appointed as Assistant Professor / Lecturer in the 4th respondent Minority Aided College on 31.03.2007 in the vacancy arose for the retirement of one Tmt.Selina Jesudhas on 31.03.2004 and he joined in the college on 01.04.2007. However, the second respondent approved the appointment of the petitioner with effect from 25.08.2007, as she was appointed without obtaining prior permission and disbursed grant-in-aid towards salary. Similarly, one S.Jasmin Sugantha Malar was appointed as Assistant Professor / Lecturer on 13.06.2007 in the vacancy arose for the retirement of one Tmt.Catherine Nesaraj on 31.03.2007. In view of delay in getting approval of her appointment, she had filed W.P.(MD).No.4986 of 2010 and this Court, by order dated 15.04.2010 directed the second respondent to consider and pass orders on the proposal submitted by the College with regard to the approval of her appointment. The second respondent, by order dated 06.08.2010, has rejected the proposal of the 4th respondent College stating that the appointment was made without obtaining prior permission. Challenging that order, the said S.Jasmin Sugantha Malar had filed W.P.(MD).No.16116 of 2013 before this Court and this Court, by order dated 15.10.2014, has set aside the impugned order and directed the respondents therein to approve her appointment from the date of her appointment ie., from 13.06.2007 and accordingly, the second respondent approved her appointment from 13.06.2007. In view of approval of appointment of S.Jasmin Sugantha Malar from 13.06.2007, the petitioner, who is senior to her, has become junior as her appointment was approved only with effect from 25.08.2007 and she lost her promotions as HOD and Principal of the College. Though the petitioner has sent several representations to the first and second respondents, it has not been considered by them. Hence, she has come up with this petition.

3. The learned counsel for the petitioner further submitted that as the 4th respondent is a Minority Aided College, it is not necessary for the same to get prior approval for filling up the retirement vacancy. But, the second respondent, without considering the same, has approved the appointment of the petitioner with effect from 24.08.2007, instead from 01.04.2007. Even after several representations, the first and second respondents did not consider the case of the petitioner. Merely because the petitioner has not approached the Court, she is now discriminated and made to



suffer by placing below to her junior. Thus, he prayed to allow this writ petition.

4. The learned counsel appearing for the official respondents submitted that the petitioner has come to the Court belatedly and therefore, this Writ Petition may be dismissed.

5. Admittedly, it is not in dispute that the 4th respondent College being a minority institution has appointed the petitioner in a sanctioned post and hence, it is not necessary for the 4th respondent College to get prior permission from the first and second respondents with regard to appointment of the petitioner. A perusal of the order passed by the second respondent dated 22.12.2008 shows that the second has approved the appointment of the petitioner with effect from 25.08.2007, only after the date of permission granted by the first respondent to fill up the vacancy. As stated earlier, prior permission for filling up of sanctioned post does not arise with regard to the 4th respondent College / Minority Institution and therefore, the second respondent ought to have been approved the appointment of the petitioner with effect from the date of her joining, ie., from 01.04.2007. But, it has not been done so by the second respondent.

6. It is seen that the petitioner has been sending representations from the year 2009 onwards to the first and second respondents to approve her appointment with effect from the date of her joining and to disburse grant-in-aid towards salary. But, the same has not been considered by the first and second respondents till date and therefore, the submission of the official respondents that the petitioner has come to the Court belatedly, cannot be accepted. If the first and second respondents would have considered any one of such representations of the petitioner, the necessity for the petitioner to file this writ petition would not have arisen. Having failed to consider the representation of the petitioner, now the respondents cannot blame the petitioner.

7. Now, in view of the approval of appointment of the junior of the petitioner with effect from the date of her appointment, as per the order of the Court, the petitioner has become junior. Even before implementing the order of the Court, the first and second respondents would have considered the case of the petitioner. But, they have not done so. Hence, this Court is inclined to issue direction as prayed for by the petitioner.

8. In view of the above, the first and second respondents are directed to approve the appointment of the petitioner as Assistant Professor / Lecturer in Chemistry in the 4th respondent College with effect from the date of her joining ie., from 01.04.2007 and disburse grant-in-aid towards salary for the period between 01.04.2007 and 24.08.2007, with all attendant benefits, within a period of eight weeks from the date of receipt of a copy of this



9. This Writ Petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Gcg

To

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

2.The Joint Director of Collegiate Education,
Tirunelveli Region,
Tirunelveli - 627 002.

3.The Registrar,
Manonmaniam Sundaranar University,
Abhisekapatti,
Tirunelveli - 627 012.

4.The Correspondent / Secretary,
Women's Christian College,
Nagercoil - 629 001,
Kanyakumari District.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-500[F]dated
07/01/2020)

+1 CC to SPL.GP (SR-678[F] dated 08/01/2020)

Order made in
W.P (MD) No.15013 of 2015
07.01.2020

VB(28.01.2020) 4P 7C