



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD)No.4243 of 2021

and

W.M.P(MD)No.3439 of 2021

R.Hemalatha

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary,
Department of Higher Education,
For St. George, Chennai-600 009.

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

3.The Joint Director of Collegiate Education,
Madurai Region, Madurai-625 020.

4.The Secretary,
Fatima College (Autonomous)
Mary Land, Madurai-625 013.

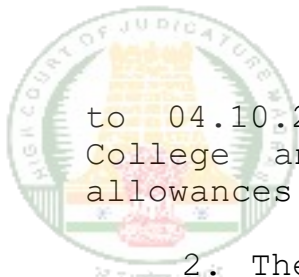
... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceeding issued by the second respondent Director of Collegiate Education in Na.Ka.No.32954/g4/2019, dated 13.01.2020, quash the same and further direct the respondents 1 to 3 herein to approve forthwith the appointment of petitioner as Assistant Professor in Department of Home Science with Bio-Technology from 15.06.2009 to 04.10.2013 in the fourth respondent college namely, Fatima College and disburse the grant-in-aid towards her salary and allowances for the said period.

For Petitioner : Ms.A.Amala
For R1 to R3 : Mr.K.S.Selvaganesan
Government Advocate

ORDER

The petitioner has filed this writ petition to quash the impugned proceeding issued by the second respondent, the Director of Collegiate Education in Na.Ka.No.32954/g4/2019, dated 13.01.2020, and for a direction to the respondents 1 to 3 to approve the appointment of petitioner forthwith as Assistant Professor in the Department of Home Science with Food Bio-Technology from 15.06.2009



to 04.10.2013 in the fourth respondent college namely, Fatima College and disburse the grant-in-aid towards her salary and allowances for the said period.

2. The petitioner was appointed as Assistant Professor in the Department of Home Science with Food Bio-Technology in the fourth respondent College on 15.06.2009 in the regular vacancy arose on account of termination of previous incumbent Mrs.R.Dhanuja on 31.05.2002 in the sanctioned post. Her appointment was well within the staff strength fixed by the second respondent dated 28.10.1999. The affiliating University accorded qualification approval on 24.11.2014. Due to personal inconvenience, she resigned her service on 04.10.2013. The fourth respondent College sent the proposal to the third respondent by the proceedings, dated 16.04.2014, seeking approval of petitioner's appointment as Assistant Professor in the Department of Home Science with Food Bio-Technology. The third respondent by the proceedings dated 09.04.2015 rejected the approval of the appointment of the petitioner and other 33 teaching staffs. The fourth respondent College filed a writ petition in W.P(MD) No.14361 of 2015 challenging the said order of rejection. This Court, by a common order dated 17.01.2018, directed the respondents 2 & 3 to approve the appointment forthwith and disburse the grant-in-aid towards their salaries and allowances with effect from their respective dates of their appointment. The respondents 2 & 3 have not complied with the Common order of this Court, dated 17.01.2018. The fourth respondent college filed contempt petition in Cont.P.(MD) No.453 of 2019. This Court, by order dated 12.09.2019, closed the contempt petition by recording the submission of the learned Additional Advocate General that except 8 persons, appointment of other teaching staffs are approved and given liberty to the fourth respondent to file fresh contempt petition, if their grievance with regard to appointment of remaining 8 persons is not considered. Again, the fourth respondent College filed contempt petition in Cont.P.(MD)No.1637 of 2019 seeking to comply the order of this Court insofar as denying the approval and disbursement of salary towards 8 teaching staffs alone. When the contempt petition came up for hearing on 22.01.2020, the second respondent by the proceedings dated 13.01.2020, denied to grant approval to the petitioner and three other teaching staffs, who have left their service and granted approval to the other 4 teaching staffs, who were in service. This Court closed the contempt petition on 01.09.2020. The petitioner has come out with the present writ petition challenging the impugned order, dated 13.01.2020, denying to grant approval of the appointment of the petitioner.

3. The learned counsel appearing for the petitioner submitted that in similar circumstances, when the fourth respondent terminated the service of the probationer namely, one Mrs.Saradha in the Department of English, she later resigned her post, the respondents 2 & 3, by proceedings dated 12.02.2021, have approved her appointment and disbursed the salary for the period she had worked

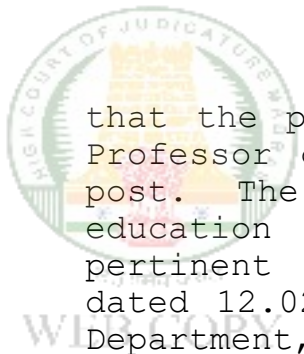


as Assistant Professor in the Department of English ie., from 16.06.2016 to 20.12.2018. The learned counsel for the petitioner further submitted that the impugned order of the second respondent is arbitrary, illegal, unconstitutional, void and without jurisdiction. The petitioner was appointed in the regular sanctioned vacancy. The petitioner is seeking to approve the appointment and disburse the salary only for the period in which, she was working in the Department of Home Science with Food Bio-Technology. The second respondent ought to have seen that when the similarly placed person was sanctioned with such benefit of approval and disbursement of salary, the same cannot be denied to the petitioner and prayed for quashing the impugned order and allowing the writ petition.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 to 3 and perused the entire materials available on record.

5. From the materials on record, it is seen that the petitioner was appointed on 15.06.2009 in the fourth respondent college as Assistant Professor in the Department of Home Science with Food Bio-Technology in the sanctioned post. When the fourth respondent sent the proposal to the third respondent for approving the appointment of the petitioner, the respondents 2 & 3 rejected the said proposal by the proceedings dated 09.04.2015 on the ground that the fourth respondent did not obtain prior permission. The writ petition in W.P(MD)No.14361 of 2015 filed by the fourth respondent was allowed by following the judgment in ***P.Ravichandran Vs. State of Tamil Nadu*** reported in **(2013) 7 MLJ 641** holding that the education authority cannot insist for prior permission for approval and directed the respondents 2 & 3 to approve the appointment and disburse the salary. After filing two contempt petitions, the second respondent approved the appointment of 29 teaching staffs and disbursed the salary, except the petitioner and three others.

6. From the impugned order, it is seen that the second respondent rejected the approval of the petitioner on the ground that the petitioner resigned her job. The issue before the second respondent was whether the appointment of the petitioner herein can be approved from the date of her appointment. Initially, the second respondent rejected the proposal of the fourth respondent for approval of 33 Assistant Professors on the ground that the fourth respondent did not get the prior permission to appoint the teaching staffs. The said rejection was set aside by this Court vide common order, dated 17.01.2018, in W.P(MD)No.14361 of 2015 and this Court held that education authority cannot insist the private college for getting prior permission for appointment. Further, the petitioner is seeking approval and disbursement of salary only for the period in which, she worked in the fourth respondent college in the sanctioned vacancy. It is not the case of the respondents 2 & 3



that the petitioner is not qualified to be appointed as Assistant Professor or that the petitioner is not appointed in a sanctioned post. The concerned University from where, the petitioner obtained education qualification, approved her qualification. It is pertinent to note that the second respondent, by the proceedings dated 12.02.2021, approved the appointment of one Saratha, English Department, who was terminated by the fourth respondent and subsequently, she resigned her post, and disbursed her salary.

7. In view of the above, the impugned order of the second respondent in Na.Ka.No.32954/g4/2019, dated 13.01.2020, is quashed and the writ petition is allowed as prayed for. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Secretary,
Department of Higher Education,
For St. George, Chennai-600 009.

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

3.The Joint Director of Collegiate Education,
Madurai Region, Madurai-625 020.

+1 CC to M/s.A.AMALA, Advocate (SR-19603[F] dated 18/06/2021)

W.P. (MD)No.4243 of 2021
16.06.2021

KB(30.06.2021) 4P 5C