



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.6155 of 2021

Mr.C.Jacob Zakariah

...Petitioner

Vs.

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

2.The Joint Director of Collegiate Education,
Tirunelveli Region,
Tirunelveli.

3.The Secretary - cum - Correspondent,
Scott Christian College,
Nagercoil.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 1st and 2nd respondents to approve the petitioner's appointment as Office Assistant in the 3rd respondent College in the Sanctioned vacancy caused by the Promotion of Mr.T.Stephenson, with effect from 02.11.2007 to 13.10.2016, in the light of the approval given by the 1st respondent to similarly placed non-teaching staff vide proceedings Na.Ka.No.9626/F2/2017, dated 05.07.2018, with monetary and all other attendant and service benefits based on the representation of the petitioner dated 11.11.2019.

For Petitioner : Mr.S.Balamurugan

For Respondents : Mr.P.Kannithevan for R1 & R2
Additional Government Pleader

O R D E R

By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

2.Since the petitioner's request to the respondents to approve the petitioner's appointment as Office Assistant in the 3rd respondent College in the Sanctioned vacancy caused by the Promotion of Mr.T.Stephenson, with effect from 02.11.2007 to 13.10.2016, in the light of the approval given by the 1st respondent to similarly placed non-teaching staff vide proceedings Na.Ka.No.9626/F2/2017, dated 05.07.2018, with monetary and all other attendant and service benefits, was not considered, the Writ Petition has been filed. According to the petitioner, he has made a representation in this regard on 11.11.2019, which is still pending.



3.It is a settled proposition of law that when the post of Government Employee has been made in accordance with Rules, the approval of such appointment will revert back to the date of appointment. This proposition has been held by a Constitution Bench of the Honourable Supreme Court in the case Direct Recruit Class II Engineering Officers' Association and State of Maharashtra reported in 1990 (2) SCC 715. As such, the approval of the petitioner's appointment from 13.10.2016 may not be proper.

4. In the light of the above observations, it would be appropriate to direct the respondents 1 and 2 herein to consider the petitioner's representation dated 11.11.2019, within a stipulated time and thereby the ends of justice could be secured.

5.Accordingly, there shall be a direction to the respondents 1 and 2 to consider the petitioner's representation dated 11.11.2019, on its own merits and pass appropriate orders in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

6. With the above direction, this Writ Petition stands disposed of. No costs.

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

2.The Joint Director of Collegiate Education,
Tirunelveli Region,
Tirunelveli.

+1 CC to M/s.S.BALAMURUGAN,Advocate (SR-12320[F] dated 18/03/2021)
W.P.(MD) No.6155 of 2021
18.03.2021

SMV (CO)

KB(19.04.2021) 2P 4C

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