



W.P.(MD)No.5862 of 2022

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

**DATED : 29.08.2022**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.S.RAMESH**

**W.P.(MD)No.5862 of 2022**

The Secretary,  
Fatima College (Autonomous)  
Mary Land, Madurai-625 018.

... Petitioner

**Vs.**

- 1.The State of Tamil Nadu  
Rep.by its Secretary,  
Department of Higher Education,  
Fort 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, Palam Station Road,  
Madurai-625 002.

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the third respondent



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Joint Director of Collegiate Education in Oo.Mu.No.4062/E3/2021 dated 09.12.2021, quash the same and direct the third respondent to approve forthwith the promotions given to the Lab Assistants as Junior Assistants and Typist in the petitioner's college viz., Mr.James and S.Siriyamalar Annai Mary as Junior Assistants and Mrs.S.Mary Clarabai as Typist and to disburse the grant-in-aid towards their salaries with effect from the date of their promotions viz., with effect from 02.06.2013, 04.01.2014 and 02.08.2013 respectively with all attendant benefits.

For Petitioner : M/s.A.Amala  
For Respondents : Mr.A.Kannan  
Additional Government Pleader

### **ORDER**

The petitioner herein is a Minority Educational Institution. Through the orders, dated 02.06.2013, 04.01.2014 and 02.08.2013, they have effected promotion to three non-teaching staff of their college in the following manner:



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| Sl.No | Name of the staff          | Designation   | Date of promotion | Promotional Post |
|-------|----------------------------|---------------|-------------------|------------------|
| 1.    | M.James                    | Lab Assistant | 02.06.2013        | Junior Assistant |
| 2.    | S.Mary Clarabai            | Lab Assistant | 02.08.2013        | Typist           |
| 3.    | S.SiriyamalarAnn<br>a Mary | Lab Assistant | 04.01.2014        | Junior Assistant |

2. In this regard, the petitioner had sent a proposal for approving the aforesaid promotions on 12.04.2021. However, the second respondent herein had rejected the same through the order, dated 09.12.2021 by observing that the post of Lab Assistant is not a feeder category for promotion to the post to which now they have been promoted by the petitioner's college.

3. The learned counsel appearing for the petitioner drew the attention of this Court to the earlier judgment passed in their own case in W.A.(MD).Nos.114 and 9 of 2020, in which, the Hon'ble Division Bench of



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this Court had ratified the proposition that since the order promoting the staff of the petitioner's College from the post of Lab Assistant to the post of Junior Assistant does not result in loss of revenue and since both the posts are of the same scale of pay, the approval need not be denied. The relevant portion of the said judgment reads as under:

*5.We find force in the submissions made by the learned counsel appearing for the respondents. As per G.O.Ms.No.11, Education Department, dated 04.01.1989, the recruitment by transfer can be made from the post of Lab Assistant to the post of Junior Assistant. Though it has been misconstrued as that of promotion from the post of Lab Assistant to the post of Junior Assistant, inasmuch as there is no loss of revenue to the appellants, such recruitment by transfer cannot be objected to, after all, both the posts are drawing the same scale of pay, which certainly benefits the persons, who moved from the post of Lab Assistant to the post of Junior Assistant.*

*6.Right to be considered for promotion cannot be denied, though it is not a vested right. The proceedings relied*



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*upon by the appellants are meant for Specific Service Rules namely, the Tamil Nadu Private Colleges (Regulation) Act, 1976 and therefore, it cannot be applied in the case on hand. Even otherwise, as observed by us, the facts would clearly establish that no prejudice is caused. To put it differently, the Management can very well fill the post of Junior Assistant. If the post is filled otherwise, the appellants would have given sanction/permission. Admittedly, the posts are also vacant. Therefore, looking from any perspective, we do not find any reason to interfere with the order of the learned Single Judge.*

4. The aforesaid decision in the petitioner's own case squarely covers the present writ petition also. Such denial of approval of the appointments made by the petitioner's College on the ground that the post of Lab Assistant is not a feeder category to the promotional post, cannot be sustained. Accordingly, the impugned order passed by the third respondent in Oo.Mu.No.4062/E3/2021, dated 09.12.2021, is quashed and there shall be a direction to the second respondent to approve the promotions of Lab Assistants, namely, M.James and S.Siriyamalar Annai Mary as Junior Assistants and S.Mary Clarabai as Typist in the petitioner's College and



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disburse the grant-in-aid towards their salaries with effect from the date of their promotions, namely, 02.06.2013, 04.01.2014 and 02.08.2013 respectively, with all attendant benefits, within a period of eight weeks from the date of receipt of a copy of this order. Hence, this Writ Petition is allowed. No costs.

**29.08.2022**

Index : Yes / No  
Speaking Order : Yes / No  
ssb



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To

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**M.S.RAMESH, J.**

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