



WP(MD)No.11889 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.08.2022**

CORAM:

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

W.P.(MD)No.11889 of 2022
and W.M.P.(MD)No.8449 of 2022

P.Ravichandran

... Petitioner

/vs./

- 1.The Secretary to Government of Tamil Nadu,
Department of Collegiate Education,
Secretariat, Chennai – 600 009.
- 2.The Director of Collegiate Education,
College Road,
Chennai – 600 006.
- 3.The Joint Director of Collegiate Education,
Thanjavur Region,
Mannar Saraboji Government Arts
College Campus,
Thanjavur.
- 4.The Secretary / Correspondent,
A.Veeriya Vandayar Memorial
Sri Pushpam College (Autonomous),
Pondi Post,
Thanjavur District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent herein in Oo.Mu.No.36157/F3/2016 dated 30.01.2018, quash the same and direct the respondents 2 and 3 herein to approve and regularize my appointment as Record Clerk in the 4th respondent College with effect from 19.12.2002 to 06.02.2006.

For Petitioner : Mr.C.Robertbruce

For Respondents : Mr.A.Kannan,
Additional Government Pleader for R1 to R3

ORDER

The petitioner herein was appointed as Record Clerk in the fourth respondent College on 13.12.2002. On a proposal sent by the 4th respondent College for approval of his appointment, the third respondent herein through the proceedings dated 07.09.2007, had approved his approval with effect from 07.02.2006. His claim for approval from the date of his original appointment i.e., from 13.12.2002, came to be rejected through the impugned order, by stating that there was a general ban on appointments between 19.12.2002 onwards and therefore, the request of the school for retrospective approval from the date of his



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appointment is not feasible. Challenging the said impugned order, the present writ petition has been filed.

2. The issue as to whether the educational authorities are entitled to deny approval from the date of initial appointment of a non-teaching staff, on the ground that there was a general ban on appointments during the relevant point of time has come before this Court in various decisions, wherein it was consistently held that such a ban on employment declared by the Government cannot be an impediment for the Educational Authorities to restrict the approval from the date of the proposal. Rather such an employee would be entitled for approval of his appointment from the date of initial appointment notwithstanding the ban imposed by the Government on appointment.

3. In identical circumstances, the respondents themselves have passed orders in the case of similarly placed non-teaching staffs, approving the appointment from the date of initial appointment, though there was a ban on employment during the relevant of point of time. One such order is in the case of P.KalyanaSundaram in G.O.Ms.No.362, Higher Education (D-1) Department,



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dated 09.11.2010. Thus, the reasoning adopted by the second respondent in rejecting the proposal of the fourth respondent seeking for petitioner's approval of appointment, cannot be sustained.

4. Accordingly, the impugned order dated 30.01.2018, on the file of the second respondent is quashed. Consequently, there shall be a direction to the second respondent herein to pass appropriate orders approving the petitioner's appointment as Record Clerk with effect from 19.12.2002 together with all service and monetary benefits within a period of four (4) weeks from the date of receipt of a copy of this order.

5. This Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

01.08.2022

Index : Yes / No

Internet : Yes / No

vsm



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M.S.RAMESH, J.

vsm

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