



W.P.(MD)No.22313 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.10.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.22313 of 2015

V.G.Darsana

... Petitioner

vs.

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

2.The Joint Director of Collegiate Education,
Tirunelveli Region,
1st Floor, Sahuntala Shopping Complex,
Thiruvananthapuram Road,
Tirunelveli - 627 003.

3.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Nungambakkam, Chennai – 600 034.

4.The Secretary,
Sri Devi Kumari Women College,
Kuzhithurai Post,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for



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issuance of Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned notification issued by the 4th respondent in Daily Thanthi News paper, dated 27.11.2015, so far as the Zoology Lecturer post is concerned and consequently, to direct the respondents 1 to 3 to approve the appointment of petitioner as Zoology Lecturer in 4th respondent's College from the date of appointment, i.e., on 09.03.2006, based on the University Grants Commission Letter No.F.No.1-1/2002 (PS)Exemp., dated 14.06.2006, with all attendant and monetary benefits.

For Petitioner	: Mr.M.Saravanakumar
For R1 to 3	: Mr.J.John Rajadurai Government Advocate (Civil side)
For R4	: Mr.K.Sathiya Singh

ORDER

This writ petition is filed for writ of Certiorarified Mandamus to quash the impugned notification issued by the 4th respondent in Daily Thanthi News paper, dated 27.11.2015, so far as the Zoology Lecturer post is concerned and consequently, to direct the respondents 1 to 3 to approve the appointment of petitioner as Zoology Lecturer in 4th respondent's College from the date of appointment, i.e., on 09.03.2006, based on the University Grants Commission



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letter, dated 14.06.2006, with all attendant and monetary benefits.

2. The petitioner had already filed a writ petition in W.P.(MD)No.8232 of 2010, with a prayer for issuance of a writ of Mandamus, to direct respondents to absorb the petitioner as Zoology Lecturer in 4th respondent's College in the regular time scale of pay and regularize the services of the petitioner from the date of appointment i.e. 27.01.2006. This Court after elaborately considering the prayer of the petitioner had passed an order dated 28.11.2017 and has directed the respondents as follows:

“39.For all these reasons, this Court is inclined to pass the following order in this writ petition:

(i) That the 4th respondent is directed to consider the request of the petitioner for absorption as Lecturer (Zoology) at the 4th respondent college by bringing her under time scale of pay, as has been done by the 4th respondent in respect of similarly placed persons by their proceedings in செ.மு.ந.க.எண்.3067/2007/ஈ1, dated 17.10.2014 and further proceedings ந.க.எண். 222/2015, dated 12.10.2015.

(ii) Such absorption shall be made by the 4th respondent with effect from 09.3.2006, from the date on which, admittedly, the petitioner had been working at the 4th respondent college.



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(iii) Further, the petitioner shall not be entitled to claim any higher salary for the period from 09.3.2006, till the date of absorption;

(iv) The aforesaid exercise shall be undertaken by the 4th respondent within a period of two months from the date of receipt of a copy of this order.

40. It is made clear that the absorption to be made as directed above, is subject to the outcome of the writ petition in W.P.No.22313 of 2015.

With the above directions, this Writ Petition is ordered. No costs. Consequently, connected miscellaneous petition is closed.”

3. In the above said writ petition, this Court has issued a positive direction to the respondents to absorb the petitioner with effect from 09.03.2006, which is the date the petitioner was admittedly working in the 4th respondent College. However, in the said order, it was made clear that the absorption is subject to the outcome of writ petition in W.P.(MD)No.22313 of 2015.

4. Under this background the present petition is heard by this Court. The parties admit that the petitioner is not possessing Ph.D., or SLET or NET. In the



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UGC regulation, a concession is granted to the candidates who are having M.Phil., degree. The said condition is extracted here under:

“NET shall remain the compulsory requirement for appointment as Lecturer for those with post-graduate degree. However, the candidates having Ph.D. degree in the concerned subject are exempted from NET for PG level and UG level teaching. The candidates having M.Phil degree in the concerned subject are exempted from NET for UG level teaching only.”

5.The University Grants Commission has categorically stated that the candidates possessing M.Phil., degree are exempted from NET for UG level teaching only. In the present case, the petitioner was appointment for UG level teaching. Therefore, the said concession is applicable to the petitioner. Subsequently, University Grants Commission has modified this concession in the year 2009. The Hon’ble Supreme Court has considered the issue whether the said concession is applicable from 2006 to 2009 and has held that the said concession is applicable for the intermediate period in P. Suseela and others Vs. University Grants Commission and others reported in 2015 (3) MLJ 734 (SC). Since the



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petitioner was appointed during that intermediate period, the said concession is applicable to the petitioner. Moreover, the notification had come into effect from the date of the notification i.e. from 14.06.2006 and the petitioner was appointed prior to the notification i.e. on 09.03.2006. Hence, this Court is of the considered opinion that the petitioner is entitled to the concession granted in the notification, dated 14.06.2006. Therefore, the respondents are directed to absorb the petitioner in the said vacancy.

6. In the order passed in W.P.(MD)No.8232 of 2010, it was held that the petitioner is not entitled to monetary benefits for the prior period. Confirming the same, this Court is also of the considered opinion that the petitioner is not entitled to any monetary benefits for the prior period but is entitled to service benefits.

7. However, the respondents submitted that they have preferred a writ appeal in W.A.(MD)No.1109 of 2018 against the order passed in W.P.(MD)No. 8232 of 2010. This submission is recorded. However independently this Court



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has come to the conclusion that the petitioner is eligible for absorption based on the concession granted by UGC and also based on the judgment passed by the Hon'ble Supreme Court in the case of Suseela's case stated supra.

8. With the above said observation, the writ petition is allowed. No costs.

Index : Yes / No

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Internet : Yes

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S.SRIMATHY, J

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Note:

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