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W.P.No.13361 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.03.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.13361 of 2019

A.Ayeshamariam

... Petitioner

Vs.

1. Government of Tamilnadu
rep. By its Secretary,
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,
Thanjavur Region,
Thanjavur – 613005
4. The Correspondent / Secretary
Khadir Mohideen College,
Adiramattinam – 614 701
Thanjavur District

... Respondents

Writ Petition is filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus directing the respondents 1 and 2 to approve the appointment of the petitioner in Lecturer in Physics in the 4th



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respondent college in the sanctioned retirement vacancy from 19.01.2001 to 04.10.2006 in the light of approval given by the 1st respondent to the similarly placed person in G.O.(3D) No.4, Higher Education (E2) Department dated 06.03.2014 all attended monetary benefits by considering the proposal submitted by the 3rd respondent to 2nd respondent on 03.07.2018.

For Petitioner : Mr.P.Ganesan

For Respondents : Mr.M.Shahjagan for R1 to R3
R4 – No appearance

ORDER

The present Writ Petition has been filed for issuance of a Writ of Mandamus directing the respondents 1 and 2 to approve the appointment of the petitioner in Lecturer in Physics in the 4th respondent college in the sanctioned retirement vacancy from 19.01.2001 to 04.10.2006 in the light of approval given by the 1st respondent to the similarly placed person in G.O.(3D) No.4, Higher Education (E2) Department dated 06.03.2014 all attended monetary benefits by considering the proposal submitted by the 3rd respondent to 2nd respondent on 03.07.2018.



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2. The brief facts of the case is that on 19.06.2001, the petitioner was selected and appointed by the 4th respondent, minority aided college as lecturer in Physics in the retirement vacancy of S.Venkataman, who retired from service on 31.05.2001. The educational qualification of the petitioner was sent to Bharathirdasan University, Thiruchirappalli for approval and the same was approved on 18.09.2001 and declared that the petitioner was eligible to hold the post of lecturer from the date of appointment. The post of the petitioner was approved by the proceedings of the 2nd respondent dated 05.10.2006 with effect from 24.07.2006 instead of giving approval from the date of initial appointment, i.e., 19.06.2001. With regard to the same, a representation was made to the 4th respondent, however the same was not considered. Further the similarly placed persons have filed Writ Petition No.13119 of 2003, 36325 of 2003 and 17368 of 2005 seeking approval of their post from their date of initial appointment till the approval period and the same was allowed by this Court. Challenging the same, the authorities went up to Hon'ble supreme Court, however, the same was dismissed. Therefore, the petitioner is before this Court seeking to extend the said relief to the petitioner also.



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3. The learned counsel for the petitioner submits that normally after appointment in regular vacancy, the college used to send the proposal to the concerned university seeking approval of the qualification under Section 15 of the Tamilnadu Private College Regulations Act. After obtaining approval, the college would seek grant for those appointment from the concern Joint Director of Collegiate Education and he is bound to sanction grant to the teachers, if they are appointed against the regular vacancy and if they possess the regular qualification as approved by the University. At present, the Director of Collegiate Education had categorically made it clear and issued a proceeding vide Na.Ka.No.63963/G3/2013 dated 07.04.2015 by which instructions are given to the Manonmanium Sundaranar University stating that they should not grant approval for the qualification unless the concerned authorities sanction the approval and grant.

4. The learned counsel for the petitioner also submits that the 2nd respondent approved the petitioner's appointment with effect from 05.10.2006, therefore, the petitioner made a representation to the 4th respondent dated 30.04.2018 and the same was considered by the 4th respondent and sent proposal to the 3rd respondent. On 03.07.2018, the



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3rd respondent also sent a proposal to the 2nd respondent for approval of the period from 19.01.2001 to 04.10.2006, however, the consideration has not been made, hence this petition.

5. Heard the learned Special Government Pleader appearing for the respondents on the submissions made by the learned counsel for the petitioner and perused the documents placed on record.

6. On going through the documents placed on record it is seen that the petitioner was selected and appointed by the 4th respondent as lecturer in Physics 19.06.2001 in the retirement vacancy of S.Venkataman, who retired from service on 31.05.2001. The educational qualification of the petitioner was sent to Bharathidasan University, Thiruchirappalli for approval and the same was approved on 18.09.2001 and declared that the petitioner was eligible to hold the post of lecturer from the date of his initial appointment. However, the said post was approved by the 2nd respondent with effect from 05.10.2006 instead of initial appointment, viz., 19.06.2001.

7. It is to be noted that the petitioner's qualification was approved for appointment by the Bharathidasan university, vide, ref. No.5832/D5/2006



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dated 21.08.2006. Further, the 3rd respondent vide proceedings dated 5700/23/2006 dated 05.10.2006 approved the post of the petitioner with effect from 24.07.2006 instead of the date of initial appointment, i.e., 19.06.2001. That apart, the 3rd respondent has also sought for the clarification to the 2nd respondent as to whether the petitioner can be released subsidy from 19.01.2001 to 04.10.2006.

8. Considering the facts and circumstances of the case and taking note of the fact that the qualification of the petitioner was approved by the Bharathidasan University as early as on 21.08.2006 to hold the said post from the date of appointment and that the clarification sought by the 3rd respondent vide proceedings dated 03.07.2018 is also pending with the 2nd respondent, this Court is inclined to direct the 1st and 2nd respondents to consider the representation of the petitioner as well as the proposal submitted by the 3rd respondent on his entitlement and pass appropriate orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of the order

In view of the above, the present Writ Petition is disposed of. No costs.

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Index : Yes/No
Internet : Yes/No
ssd

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V.BHAVANI SUBBAROYAN, J.,

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