



W.P.(MD)No.1930 of 2023

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

**DATED : 01.02.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**W.P.(MD)No.1930 of 2023**

Mr.S.Sathish Kumar

... Petitioner

Vs.

- 1.The Director of Collegiate Education,  
DPI Campus, Chennai-600 006.
- 2.The Commissioner,  
Hindu Religious and Charitable  
Endowments Department,  
Chennai-600 034.
- 3.The Secretary,  
Sri Devi Kumari Women's College,  
Kuzhithurai and the Joint Commissioner /Executive Office,  
Incorporated and Unincorporated Devsam,  
Susindram,  
Kanyakumari District.
- 4.Sri Devi Kumari Women's College,  
represented by its Principal,  
Kuzhithurai,  
Kanyakumari District.



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5. The Joint Director of Collegiate Education,  
Tirunelveli Region,  
Tirunelveli District.

... Respondents

**PRAYER** : Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to consider the petitioner's application for the post of Record Clerk in the fourth respondent College within a time frame stipulated by this Court.

|                |   |                                              |
|----------------|---|----------------------------------------------|
| For Petitioner | : | Mr.G.Anto Prince                             |
| For R1 & R5    | : | Mr.S.Saji Bino<br>Special Government Pleader |
| For R2         | : | Mr.R.Rajendran<br>Government Advocate        |
| For R3 & R4    | : | Mr.K.Sathya Singh                            |

### **ORDER**

This writ petition has been filed for issuance of a writ of Mandamus, directing the respondents to consider the petitioner's application for the post of Record Clerk in the fourth respondent College.



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2. The case of the petitioner is that he was appointed as Watchman in the fourth respondent College in the year 2009 under the self financing scheme. The fourth respondent College has given oral assurance to appoint him as Watchman in the regular post as and when the vacancy arises. Therefore, the petitioner has made several representations to the authorities concerned to appoint him as Watchman in the regular vacancy and also sent a representation to the Hon'ble Minister of Hindu Religious and Charitable Endowment and to the Member of the Legislative Assembly. However, till date the petitioner's request was not considered. Hence, the petitioner has filed the present writ petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that already the petitioner has filed a writ petition before this Court in W.P. (MD).No.22636 of 2015, seeking direction to the fourth respondent to appoint him as Watchman in Sri Devi Kumari Women's College in the regular vacancy with all monetary and attendant benefits. This Court, by



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order dated 01.08.2019, directed the fourth respondent to conduct a selection for appointment to the post of Watchman with reference to the statutes and rules in force. In the event of conducting any such selection, the writ petitioner is also at liberty to participate in the process of selection, if he is otherwise eligible and qualified for regular appointment to the post of Watchman. However, till date no action has been taken. Hence, this Court may issue a direction to the respondents to consider the petitioner's application for the post of Record Clerk in the fourth respondent College within a reasonable time as fixed by this Court.

4. Per contra, the learned Special Government Pleader appearing for the respondents 1 and 5 would submit that any appointment made only by way of employment seniority or the recruitment process. Though the petitioner claimed that he is working in the fourth respondent College as an Watchman right from 2009 and he made an application seeking to appoint him in the regular vacancy in the fourth respondent College, the said application cannot be considered and this application is contrary to the Rule of Recruitment. Hence, he prayed for dismissal of this writ petition.



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5. Heard the learned counsel for the petitioner, learned Special Government Pleader appearing for the respondents 1 and 5, learned Government Advocate appearing for the second respondent and the learned counsel appearing for the respondents 3 and 4.

6. The facts in the present case are not in dispute. The petitioner claimed that he was appointed in the fourth respondent College as Watchman under the Self Finance Scheme in the year 2009 and continuously working in the said College and till date his appointment was not regularised. Therefore, the petitioner has made an application seeking to appoint him as Watchman in the regular post. It is also not in dispute that the petitioner has already obtained an order for considering his application for appointment of the said post. However, the learned Special Government Pleader would submit that any appointment made only by way of employment seniority or the recruitment process. Hence, contrary to the employment seniority and the recruitment process no affirmative direction



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can be issued. Hence, this Writ Petition is dismissed. However, this order will not stand in the way of the petitioner to work out the remedy, in the manner known to law. No costs.

**01.02.2023**

NCC: Yes/No

Index : Yes / No

Speaking Order : Yes / No

akv

To

- 1.The Director of Collegiate Education,  
DPI Campus, Chennai-600 006.
- 2.The Commissioner,  
Hindu Religious and Charitable  
Endowments Department,  
Chennai-600 034.
- 3.The Joint Director of Collegiate Education,  
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Tirunelveli District.



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**M.DHANDAPANI,J.**

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