



**W.P.(MD) No.4862 of 2020**

WEB COPY

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

**DATED : 20.01.2023**

**CORAM**

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

W.P.(MD) Nos.4862 and 4902 of 2020  
and WMP(MD) Nos.4241, 4242, 4266 and 4267 of 2020

B.Manojkumar

... Petitioner in  
W.P.No.4682/2020

R.Sridhar

... Petitioner in  
W.P.No.4902/2020

-VS-

- 1.The Director of Collegiate Education,  
O/o. The Director of Collegiate Education,  
DPI Campus, 9<sup>th</sup> floor,  
EVK Sampath Buildings College Road,  
Chennai 600 006.
- 2.The Joint Director of Collegiate Education,  
Regional Joint Director of Collegiate Education,  
Palam Station Road, Sellur, Madurai.
- 3.The Secretary  
Rajapalayam Raju's College  
Palayapalayam  
Rajapalayam 626 117

... Respondents  
in both W.Ps.

Common Prayer:- Petitions filed under Article 226 of the Constitution of India praying for issuance of Writs of Certiorarified Mandamus to call for the records relating to the impugned proceedings in BM/105&106/2019-20



**W.P.(MD) No.4862 of 2020**

dated 07.06.2019 issued by the 3<sup>rd</sup> respondent and impugned Advertisement dated 09.02.2020 published by the 3<sup>rd</sup> respondent in Daily Newspaper, quash the same as illegal and consequentially direct the 3<sup>rd</sup> respondent resubmit proposal to the 2<sup>nd</sup> respondent for granting approval for the appointment of writ petitioners within time limit fixed by this Court.

For Petitioner : Mr.S.Venkatesh (for both cases)

For Respondents : Mr.T.Amjad Khan for R1 & R2  
Government Advocate  
Mr.T.Cibi Chakravarthy for R3  
(for both cases)

### **COMMON ORDER**

Challenge is made to the order of the 3<sup>rd</sup> respondent dated 07.06.2019 and the Advertisement of the third respondent dated 09.02.2020 and for a consequential direction to the 3<sup>rd</sup> respondent to resubmit the proposal to the 2<sup>nd</sup> respondent for granting approval for the appointment of writ petitioners.

2. The issue arises in these writ petitions is one and the same and hence, these writ petitions are disposed of by this common order.



**W.P.(MD) No.4862 of 2020**

3. The petitioners were appointed as Waterman and Sweeper in the third respondent College on 10.06.2013. Though the petitioners were appointed and completed their probation as early as on 15.07.2014, approval was not granted by the 2<sup>nd</sup> respondent and hence, the salary was paid by the third respondent college. To approve their appointment of 7 non teaching staff, the third respondent college filed W.P.(MD) No.1234 of 2014 and the same was allowed, challenging which, the department preferred writ appeal, which also came to be dismissed. Pursuant to the same, the 2<sup>nd</sup> respondent approved the appointment of four persons, except the petitioners herein. Subsequently, since the post of office assistant fell vacant, the petitioners participated in the selection process. Accordingly, the petitioners were selected. Therefore, the third respondent sent proposal to approve the appointment of the petitioners. However, the proposal was rejected stating that the petitioners are over-aged.

4. The petitioners were directed by the 3<sup>rd</sup> respondent to repay the salary granted to them and they were given time till February 2019. Since the petitioners have not repaid the same, the petitioners were ousted from service through the impugned order dated 07.06.2019. It is their case that since their original appointment is within the age limit, a request has been



**W.P.(MD) No.4862 of 2020**

made to the 3<sup>rd</sup> respondent to again send a proposal to the 2<sup>nd</sup> respondent.

However, the third respondent made a paper publication on 09.02.2020 to fill up the post of Office Assistants. Challenging both the orders, the petitioners are before this Court.

5. The learned counsel for the petitioners would submit that when the approval order is rejected by the 2<sup>nd</sup> respondent stating that the petitioners are over-aged, the said approval was not resubmitted by the third respondent by getting exemption in view of G.O.Ms.No.704 dated 15.04.1964. It is also submitted that the petitioner in W.P.(MD) No.4902/2020 is a physically challenged person and the petitioners' original entry into service was in the year 2013 and hence, their initial date of appointment should be calculated for their approval, in which case, the petitioners are entitled to be considered for employment to the said posts. However, without giving opportunity to the petitioners, the ousting order is passed, which is violation of principles of natural justice and hence, prays for interference.

6. Per contra, the learned counsel for the third respondent would submit that since the petitioners' performance were assessed to be not satisfactory and due to their frequent absence, on the recommendation of the



**W.P.(MD) No.4862 of 2020**

college management, the discharge simpliciter were issued to them and in their place, two persons were appointed and they are working from 03.03.2020 and hence, the writ petitions are liable to be dismissed.

7. Heard the learned counsel for the petitioners, the learned Government Advocate for the respondents 1 and 2 and the learned counsel for the third respondent.

8. The appointments of the petitioners in the third respondent college and their subsequent appointment as Office Assistants are not disputed. Since their appointment were not approved, the management filed writ petitions, which is allowed and the writ appeal by the respondent department was dismissed. Subsequently, the impugned order of rejection was passed against the petitioners stating that the petitioners are over-aged. The G.O. that has been relied upon by the petitioners are only for public service and it is not applicable to the third respondent college/management. When the petitioners' appointment were not approved, they have no right whatsoever to challenge the said orders. It is also to be noted that the impugned orders of discharge were passed, when the petitioners' appointment were not approved. It is pertinent to note here that in the place of the petitioners, two



**W.P.(MD) No.4862 of 2020**

other persons were appointed and their appointments were also approved on 03.09.2020 and without challenging the subsequent appointments, the petitioners' challenge to the impugned orders is not sustainable.

9. For these reasons, the writ petitions fail and the same are dismissed. No costs. Consequently connected Miscellaneous Petitions are closed.

**20.01.2023**

NCC : Yes/No  
Index : Yes/No  
Internet : Yes

RR

To

- 1.The Director of Collegiate Education,  
O/o. The Director of Collegiate Education,  
DPI Campus, 9<sup>th</sup> floor,  
EVK Sampath Buildings College Road,  
Chennai 600 006.
- 2.The Joint Director of Collegiate Education,  
Regional Joint Director of Collegiate Education,  
Palam Station Road, Sellur, Madurai.



WEB COPY



**W.P.(MD) No.4862 of 2020**

**M.DHANDAPANI, J.**

RR

**W.P.(MD) Nos.4862 and 4902 of 2020**

**20.01.2023**