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W.P.(MD)No.14804 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.14804 of 2022

and

W.M.P.(MD)No.10587 of 2022

The Secretary,
Fatima College (Autonomous),
Mary Land, Madurai-625 018

... Petitioner

vs.

- 1.The State of Tamil Nadu,
represented by its Secretary,
Department of 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,
Palam Station Road, Madurai-625 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for records relating to the impugned proceedings issued by 3rd respondent Joint



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Director of Collegiate Education in Oo.Mu.No.5157/E3/2020, dated. . 03.2021, to quash the same and further, to direct the respondents herein to approve forthwith the appointment of Dr.E.Helena as Assistant Professor in the Department of Mathematics in the petitioner's College and disburse the grant-in-aid towards her salary and allowances with effect from the date of her appointment i.e., 01.06.2019.

For Petitioner : M/s.A.Amala
For Respondents : Mr.V.Om Prakash
Government Advocate

ORDER

This writ petition is filed for issuance of a writ of Certiorarified Mandamus, to quash the impugned proceedings issued by 3rd respondent and to direct the respondents herein to approve forthwith the appointment of Dr.E.Helena as Assistant Professor in the Department of Mathematics in the petitioner's College and disburse the grant-in-aid towards her salary and allowances with effect from the date of her appointment i.e., 01.06.2019.



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2. The petitioner is a private aided College affiliated to the University of Madras and subsequently with Madurai Kamaraj University. An Assistant Professor post in the Department of Maths became vacant due to the retirement of the incumbent Dr.Mrs.S.Rose Mary on 31.05.2019. In the said vacancy, the College appointed Dr.Mrs.E.Selena as Assistant Professor on 01.06.2019. The said candidate is possessing M.A., M.Phil., Ph.D., qualification and the appointment is within the staff strength granted through proceedings, dated 28.10.1999. The College submitted proposals for the approval of required documents. However, the respondents, vide impugned order rejected the same, since the candidate was not possessing Ph.D., qualification as on the date of advertisement. The said fact is disputed by the petitioner College and has filed this writ petition, challenging the order declining to grant approval.



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3. On instructions from the respondents, the Learned Government Advocate submitted that the candidate had attended Viva Voce on 26.04.2019. But on the date of application, the petitioner did not attend Viva Voce and had not completed Ph.D., course and hence, the candidate is not having the requisite qualification of Ph.D. Therefore, the respondents claimed to reject the writ petition and sustain the order.

4. Heard M/s.A.Amala, learned Counsel appearing for the petitioner and Mr.V.Om Prakash, learned Government Advocate appearing for the respondents and perused the records.

5. On perusing the records and after hearing the rival submissions of both sides, the relevant dates necessary to decide the issue are as follows. The petitioner College has issued a paper publication on 14.04.2019 and directed the eligible candidates to submit an application



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on or before 22.04.2019. The selected candidate had attended Viva Voce for Ph.D. on 26.04.2019. Since the paper publication was on 14.04.2019, the candidate had attended the Viva Voce subsequent to the paper publication, she was not qualified Ph.D., hence, she was not entitled to approval.

6. But the learned Counsel for the petitioner relied on the call letter wherein it has been directed that the candidate should appear for Viva Voce on 26.04.2019, vide communication, dated 15.04.2019. The said communication dated 15.04.2019 is prior to the last date (last date is on 22.04.2019) fixed for submitting the application. Therefore, when the candidate has received Viva Voce call letter, the candidate ought to be considered as qualified as Ph.D. Moreover, on the date of interview, the petitioner had completed Viva Voce. Therefore, on the date of interview, the said candidate is fully qualified. The petitioner college further



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submitted that the said candidate had preform extremely well in the interview among the candidates who attended the interview.

7. Hence, this Court is of the considered opinion that as on the the date of interview, the said candidate is fully qualified and hence eligible to be approved. Therefore, respondents are directed to approve the candidate and disburse the grant in aid within a period of six weeks from the date of receipt of a copy of this order.

8. With the above said observation, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No

20.04.2023

Internet : Yes

NCC : Yes / No

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To

- 1.The Secretary,
State of Tamil Nadu,
Department of 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,
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S.SRIMATHY, J

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