



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 30.06.2023

Pronounced on : 03.10.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)No.18289 of 2020

and

WMP(MD)Nos.15273 of 2020 & 10748 of 2023

S.Devasahayam

... Petitioner

vs.

- 1.The Principal Secretary to Government,
Higher Educational Department,
Fort St. George, Chennai – 600009.
- 2.The Director, O/o. the Director of Collegiate Education,
College Road, Chennai – 600006.
- 3.The Regional Joint Director of Collegiate Education,
O/o. the Joint Director of Collegiate
Education, Tirunelveli – 627008.
- 4.The Chairman/ Moderator Commissary,
Tirunelveli Diocesan Trust Association
(TDTA) Colleges, Bishop Stowe,
No.17, North Ground Road, Palayamkottai,
Tirunelveli – 627002.



5.Sarah Tucker College (Autonomous),
Rep.by the Secretary,
Perumalpuram, Tirunelveli – 627007.

6.Sarah Tucker College (Autonomous),
Rep. by the Principal, Perumalpuram,
Tirunelveli – 627007.

7.St.Johns College,
Rep.By the Secretary, Tirunelveli – 627002.

8.St.Johns College,
Rep. by the Principal, Tirunelveli – 627002.

9.Monika Jemi Jeba

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus by calling for the records pertaining to the order of appointment dated 18.12.2017 issued by the 5th respondent in favour of the 9th respondent in the post of Laboratory Assistant in Sarah Tucker College, Tirunelveli as well as the consequential order of approval made by the 3rd respondent in Pa.Mu.No.3701/Aa3/2019-5 dt 13.12.2019 and quash the same and consequentially direct the respondents 5 and 7 to promote the petitioner as Laboratory Assistant with retrospective effect by determining the petitioner's commencement of service in the Post of Laboratory Assistant based on the petitioner's seniority with all monetary and consequential service benefits.

(Prayer was amended vide order dated 03.10.2023)



For petitioner : Mr.R.Anand
For Respondents : Mr.N.Satheesh Kumar,
Addl Government Pleader for R1 to R3

No appearance for R4 and R5

Mr.P.P.Alwin Balan for R6 to R8

Mr.T.Pon Ramkumar for R9

ORDER

Heard both sides.

2.The petitioner was appointed as Sweeper in Sarah Tucker College, Tirunelveli on 18.02.2001. It was a sanctioned post. His appointment was duly approved. The petitioner was promoted as Record Clerk on 15.06.2006. The promotion was also duly approved. The next promotional avenue for the petitioner was to the post of Lab Assistant. When vacancy arose, the college management appointed the ninth respondent on 18.12.2017. This was also duly approved by the third respondent vide proceedings dated 06.11.2019. Contending that the mandate set out in Rule 11(4)(i) of the Tamil Nadu Private Colleges (Regulation) Rules, 1976 has been breached, the present writ petition came to be filed.



3. It is not in dispute that the aforesaid Rule has been upheld by the Hon'ble First Bench in the decision reported in **2002 (3) CTC 65 (M.Reethammal v. State of Tamil Nadu)**. Though the petitioner otherwise has a formidable case, one impediment alone comes in the way. Qualification for the post of Lab Assistant is pass in SSLC. The petitioner has not passed SSLC. He claims that since he cleared pre-foundational course conducted by the Madurai Kamaraj University on 26.08.2009, he should be considered as having the qualification of SSLC. He relied on a catena of decisions of this Court. Unfortunately for the petitioner, the Hon'ble Division Bench of this Court in WA(MD)Nos.497 to 500 of 2022 dated 05.07.2022 had held that the benefit of qualification can be claimed only up to 20.11.2017 when G.O Ms.No.144, Personnel and Administrative Reforms (M) Department was issued. This question has been referred to a larger Bench vide order dated 13.07.2023 in WA(MD)No.462 of 2014. Of course, this Court need not wait till the larger Bench pronounces its opinion. But the present legal position is adverse to the petitioner. I am not in a position to grant the relief sought for. It is well settled that only a person whose rights are infringed will have the locus standi to assail any appointment. This is a fundamental principle of service jurisprudence. Since the petitioner does not have eligibility qualification, the petitioner cannot question the appointment of the ninth respondent.



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4.This writ petition is dismissed. The learned counsel appearing for the contesting private respondent states that on account of the pendency of the litigation, salary has not been disbursed. Since the appointment of the ninth respondent as Lab Assistant has already been approved, there cannot be any impediment for releasing her salary. The department is directed to release the salary arrears of the ninth respondent forthwith and without any delay.

5.This writ petition is dismissed. No costs. Connected miscellaneous petitions are closed.

03.10.2023

Index : Yes / No
Internet : Yes/ No
skm

To

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- 2.The Director, O/o. the Director of Collegiate Education,
College Road, Chennai – 600006.
- 3.The Regional Joint Director of Collegiate Education,
O/o. the Joint Director of Collegiate
Education, Tirunelveli – 627008.



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G.R.SWAMINATHAN, J.

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