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W.P.(MD)No.5906 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.5906 of 2018
and
W.M.P.(MD)No.5787 of 2018

M.Balakrishnan

... Petitioner

vs.

1.The Director of Collegiate Education,
College Road,
Chennai-600 006.

2.The Joint Director of Collegiate Education,
Madurai Region,
No.30, VaidhyanadaIyer Street,
Madurai-625 020.

3.The Principal and Secretary,
The American College,
Madurai-625 002.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 1st respondent in his proceedings Mu.Mu.No.11937/G4/2017, dated 03.01.2018 and to quash the same as illegal and consequently, to direct the 1st respondent to approve the petitioner's appointment as Physical Training Instructor in the 3rd respondent college with effect from 14.04.2007, along with monetary benefits within the period that may be stipulated by this Court.

For Petitioner	: Mr.M.E.Ilango
For R1	: Mr.V.Omprakash Government Advocate
For R3	: Mr.M.Mohaned Rafi for M/s.Ajmal Associates *****

ORDER

This writ petition is filed for writ of Certiorarified Mandamus, to quash the impugned order dated 03.01.2018 of the 1st respondent as illegal and consequently, to direct the 1st respondent to approve the petitioner's appointment as Physical Training Instructor in the 3rd



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respondent college with effect from 14.04.2007, along with monetary benefits within the period that may be stipulated by this Court.

2.The respondents have declined to approve the said post, since the said post is abolished based on G.O.(1D)No.135, Higher Education (D1) Department, dated 12.06.2009. The contention of the petitioner is that he was appointed prior to the abolition of the post.

3. The said issued was already considered by a learned Single Judge and it was held that any person appointed prior to abolition of the post cannot be disturbed.

4. In this writ petition, the petitioner was appointed prior to the abolition. Therefore, the appointment cannot be disturbed. Moreover, the petitioner has attained superannuation on 30.09.2022 and completed his



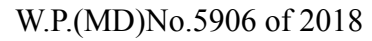
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service. Thereafter, the respondents have granted extension from 01.10.2022 to 30.04.2023 and the petitioner has completed the extension service also.

5. Therefore, this Court is of the considered opinion that the respondents ought to pay the applicable salary to the said post along with benefits. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

6. Subsequent to the retirement of the petitioner, the 3rd respondent is not having any right to fill up the said post based on G.O.(1D)No.135, Higher Education (D1) Department, dated 12.06.2009. If the 3rd respondent has appointed anybody, the official respondents are not bound to grant any aid to the 3rd respondent to the said post.



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S.SRIMATHY, J

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