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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	19.10.2023
Pronounced on	30.01.2024

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.18694 of 2022
and
W.M.P.Nos.18054 & 18056 of 2022

Zahida Jabeen

...Petitioner

Vs.

1.The Joint Director of
Collegiate Education,
Chennai Region,
Chennai – 600 015.

2.Justice Basheer Ahmed Sayeed
Women's College,
Rep. by its Correspondent,
309, Anna Salai, Teynampet,
Chennai – 600 018.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Certiorarified Mandamus, calling for the records in respect of the order contained in Na.Ka.No.2213/A2/2020 dated 19.10.2020 issued by the 1st respondent to the 2nd respondent and quash the same and consequently direct the respondents to extend all service benefits to the



W.P.No.18694 of 2022

petitioner, viz., Tmt.Zahida Jabeen w.e.f. 06.08.2001 as directed by this Court.

For Petitioner : Dr.R.Maheswari

For 1st Respondent : Mr.M.Bindran,
Additional Government Pleader

For 2nd Respondent : Mr.B.Senthilnathan

ORDER

Heard Dr.R.Maheswari, learned counsel appearing for the petitioner, Mr.M.Bindran, learned Additional Government Pleader appearing for the 1st respondent and Mr.B.Senthilnathan, learned counsel appearing for the 2nd respondent.

2. The petitioner was appointed to the post of Lecturer in the 2nd respondent College on 23.02.1993 in an approved leave vacancy. However, on 10.07.1995, the 2nd respondent had terminated the petitioner's services. This action was questioned by the petitioner through W.P.No.9479 of 1995 before this Court and by an order dated 06.08.2001, the Writ Petition came to be allowed, by directing the 1st respondent herein to accord necessary sanction for filling up the vacancies in the 2nd respondent management and to



W.P.No.18694 of 2022

approve the appointment of the petitioner in a regular capacity in any of the three identified vacancies, within a period of four weeks, with a consequential direction to pay the salaries for the period of 19 months, during which she had rendered her full services in the College. The challenge made to this order by the College, before an Hon'ble Division Bench of this Court in W.A.No.2001 of 2001, came to be dismissed on 05.04.2006, directing the College to send a proposal to the educational authorities, as well as for granting approval of appointment. Accordingly, the College had sent a proposal to the University of Madras, as well as the 1st respondent herein, seeking for approval of the petitioner's appointment as Lecturer. On 08.06.2006, the University of Madras had granted approval for the appointment of the petitioner as Lecturer. In this background, the 2nd respondent College had appointed the petitioner as Lecturer through a memorandum dated 26.06.2006. Since the management had appointed the petitioner only on 26.06.2006 and forwarded the proposal on 10.07.2006, which was also approved by the Directorate of Collegiate Education, the petitioner had preferred Cont.P.No.710 of 2006 as against the order passed in W.A.No.2001 of 2001, dated 05.04.2006. The Hon'ble Division Bench of this Court had passed final orders in the Contempt Petition, giving effect to the



petitioner's appointment from 06.08.2001, the date on which the final orders were passed by the learned Single Judge in W.P.No.9479 of 1995. The relevant portion of the order reads as follows:-

“In those circumstances, while recording the action taken by the respondents, it is clarified that the appointment of the petitioner takes effect from the date of order 06.08.2001, that is the date on which the relief was granted by the learned single Judge in allowing the writ petition. In as much as she did not work from that date, she is not entitled any monetary benefits; however, the same shall be considered for the purpose of service benefits. With the above direction, the contempt petition is closed.”

3. In the meantime, the appeal preferred by the College before the Hon'ble Supreme Court in S.L.P. (Civil Appeal) No.1441 of 2008, against the order passed by the Division Bench of this Court in Cont.P.No.710 of 2006, was also rejected on 22.11.2017. In this background, when the petitioner had sought for the service benefits to be extended to her, with effect from 06.08.2001, as ordered by the Division Bench in Cont.P.No.710 of 2006, her request was rejected through the impugned order dated 19.10.2020, by



W.P.No.18694 of 2022

placing reliance on the clarification issued by the Directorate of Collegiate Education, dated 19.06.2020, holding that since the approval of appointment of the petitioner was only granted on 08.06.2006 by the University of Madras, her claim for the service benefits from 06.08.2001 is not feasible. Challenging the said order, the present Writ Petition has been filed.

4. The short point that arises for consideration in this Writ Petition is to the reasoning adopted by the 1st respondent herein in the impugned order for rejection of the petitioner's claim on the ground that her appointment was approved only on 08.06.2006 and therefore, she is dis-entitled to claim the service benefits from 06.08.2001.

5. Apparently, this reason requires to be rejected at the threshold itself, since the same is patently against the direction issued by the Hon'ble Division Bench in its order dated 09.02.2007 passed in Cont.P.No.710 of 2006. In the said order of the Division Bench, it was observed that since the learned Single Judge, whose order was put under challenge in a Writ Appeal, had not specified the date on which the petitioner has to be appointed, the date of order passed in the Writ Petition, namely 06.08.2001, was taken as the date



W.P.No.18694 of 2022

on which the appointment of the petitioner should take effect from. This portion of the order of the Division Bench has already been extracted above in this order. This order was also affirmed by the Hon'ble Supreme Court, while rejecting S.L.P. (Civil Appeal) No.1441 of 2008, dated 22.11.2017.

6. In spite of such specific directions to treat the petitioner's appointment with effect from 06.08.2001, the 1st respondent herein seems to have placed reliance on a clarification issued by the Directorate of Collegiate Education dated 19.06.2020 and denied the petitioner's request by citing her date of approval as 08.06.2006. Apparently, such a clarification of the Directorate of Collegiate Education dated 19.06.2020, as well as the present impugned order dated 19.10.2020 passed by the 1st respondent, are in blatant disobedience of the order of the Hon'ble Division Bench and hence, cannot be legally sustainable. Since no other reason has been assigned in the impugned order for rejection of the petitioner's claim of service benefits, the impugned order is liable to be quashed.

7. It would be pertinent to point out here that the Hon'ble Division Bench, while passing orders in Cont.P.No.710 of 2006 on 09.02.2007, had



W.P.No.18694 of 2022

observed that the petitioner would not be entitled for monetary benefits, since she did not work from that date, but she would, however, be entitled for the service benefits.

8. In the light of the above findings and observations, the impugned order dated 19.10.2020 issued by the 1st respondent herein is quashed. Consequently, there shall be a direction to the respondents to forthwith pass orders, extending all the service benefits to the petitioner, with effect from 06.08.2001, including any notional promotions which may have been deprived to her. The 2nd respondent College is called upon to submit a fresh proposal seeking for extension of such service benefits from 06.08.2001 to the 1st respondent herein, in the light of the observations made in this order, within a period of two (2) weeks from the date of receipt of a copy of this order. On receipt of the said proposal, the 1st respondent shall pass necessary orders, approving the proposal, within a period of four (4) weeks therefrom.

9. In the result, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.



W.P.No.18694 of 2022

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30.01.2024

Index:Yes
Neutral Citation:Yes
Speaking order
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To

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- 2.The Correspondent,
Justice Basheer Ahmed Sayeed
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309, Anna Salai, Teynampet,
Chennai – 600 018.



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W.P.No.18694 of 2022

M.S.RAMESH,J.

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**PRE-DELIVERY ORDER MADE IN
W.P.No.18694 of 2022**

30.01.2024