



W.P.(MD).No.1218 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.1218 of 2024

1. A.Kumar
2. K.Amsan
3. K.Kingson

... Petitioners

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,
Tirunelveli Region,
Tirunelveli District.
4. The Correspondent – Secretary,
Nazareth Margoschis College,
at Pillaiyanmanai,
Thoothukudi District – 628 617.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 3 to approve forthwith the appointment of the first petitioner's late wife



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S.Murugammal as Gardener in the fourth respondent College in the light of the proceedings in Na.Ka.No.15735/F4/2022, dated 09.11.2022 and disburse the grant-in-aid towards her salaries and allowances w.e.f 21.12.2012 i.e., from her date of appointment with all attendant benefits to till her date of death i.e., 21.07.2023 to the petitioners herein.

For Petitioners : Mr.T.Cibichakraborty
For R1 to R3 : Mr.N.Satheesh Kumar
Additional Government Pleader
For R4 : No appearance

ORDER

The present Writ Petition has been filed by the husband and sons of the deceased appointee to the fourth respondent College seeking a Mandamus to approve the appointment of the first petitioner's wife with effect from 21.12.2012 and disburse the grant-in-aid and other benefits till her date of death i.e., on 21.07.2023.

2. According to the learned counsel for the writ petitioners, one S.Murugammal was appointed as a Gardener in the fourth respondent College by way of an appointment order dated 20.12.2012. According to the writ



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petitioners, a proposal was forwarded to the third respondent on 03.01.2013.

Since the proposal was neither returned nor approved, a reminder was sent by the College on 26.11.2021. Even after the reminder, the authorities have not acted upon and therefore, the first petitioner's wife had filed W.P No.18549 of 2023 seeking a Mandamus to approve her appointment. This Court, by an order dated 22.06.2023, had directed the third respondent to pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of the order. Unfortunately, the appointee, namely S.Murugammal had passed away on 21.07.2023. On the said ground, the authorities have not processed the proposal submitted by the Management.

3. According to the learned counsel appearing for the writ petitioners, the authorities have granted approval to Sweepers and Sanitary workers of the same College, who were appointed in the year 2021, through the proceedings of the third respondent dated 19.11.2022. However, the request of the first petitioner's wife alone has not been considered citing that outsourcing is the Rule for appointment of last grade servant.



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4. Per contra, the learned Additional Government Pleader appearing for the respondents 1 to 3 had contended that though it is pointed out by the petitioners that the proposal was forwarded on 03.01.2013, the proposal was actually received only on 26.11.2021 and before the proposal could be considered on merits, the appointee had passed away and therefore, no further orders were passed.

5. Even though an appointee had passed away before her appointment is approved, the authorities have to proceed further to approve or reject the proposal for approval, so that the legal heirs would be in a position to receive the salary and other monetary benefits. The authorities were not right in placing the proposal of the Management on hold on the ground that the appointee had passed away. That apart, since the other appointments of the year 2021 in the cadre of the Sweeper and Sanitary worker have been approved, the authorities cannot cite the Rule of outsourcing to reject the request for approval.

6. It is for the fourth respondent Management to place all the records before the third respondent to establish the fact that the first petitioner's wife



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was actually appointed on 21.12.2012 and the proposal was forwarded on 03.01.2013. Based upon the said records, the third respondent is directed to proceed further and pass orders on merits, in the light of observations made by this Court within a period of eight weeks from the date of submission of records by the Management.

7. With the above said observations, this Writ Petition stands disposed of. There shall be no order as to costs.

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