



W.P.(MD).No.2136 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.02.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.2136 of 2024

L.M.Samuel Nayagam

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Principal Secretary,
Higher Education Department,
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,
Gandhi Nagar,
Tirunelveli-627 008.
- 4.The Registrar,
Manonmaniam Sundaranar University,
Tirunelveli District.
- 5.Nesamony Memorial Christian College,
Rep. by its Secretary cum Correspondent,
Marthandam, Kanyakumari District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 2nd respondent herein to approve the petitioner's appointment as Assistant Professor in the Department of English in the 5th respondent College in the sanctioned aided vacancy caused due to the retirement of Mr.C.Issac with effect from 14.06.2007 to 18.12.2014 in the light of the approval given by the 2nd respondent to the similarly placed persons on the basis of the common order passed in W.P.Nos. 24540, 6226, 6573, 9247 of 2013 and W.P.No.29335 of 2012 dated 11.08.2017 with monetary and all other service benefits.

For Petitioner : Mr.B.Brijesh Kishore
For R-1 to R-3 : Mr.N.Ramesh Arumugam,
Government Advocate (CIVIL)
For R-4 : Mr.Mahaboob Atiff
For R-5 : Mr.Deepak

ORDER

The present writ petition has been filed seeking direction to the 2nd respondent to approve the petitioner's appointment as Assistant Professor in the Department of English in the 5th respondent College in the sanctioned aided vacancy caused due to the retirement of Mr.C.Issac with effect from 14.06.2007



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to 18.12.2014 in the light of the approval given by the 2nd respondent to the similarly placed persons on the basis of the common order passed in W.P.Nos. 24540, 6226, 6573, 9247 of 2013 and W.P.No.29335 of 2012 dated 11.08.2017 with monetary and all other service benefits.

2. The brief facts which are necessary for the disposal of this Writ Petition is as follows:-

(i) The 5th respondent College is a Government Aided Minority Educational Institution. The petitioner was originally appointed as un-approved staff with effect from 19.09.2003 as Lecturer in the Department of English in the 5th respondent College in the retirement vacancy of Dr.G.Oliver Robert Son. Thereafter, he was appointed as Lecturer and now designated as Assistant Professor in the Department of English in the 5th respondent college vide proceedings dated 14.06.2007. The 3rd respondent vide proceedings dated 03.11.2015 approved the petitioner's appointment as Assistant Professor in the Department of English with effect from 19.12.2014 forenoon. However, the 2nd respondent did not approve the petitioner's appointment as Assistant Professor



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in the Department of English with effect from 14.06.2007 to 18.12.2014. Since the same being a sanctioned aided post, similarly placed persons like petitioner who were working as Assistant Professors in various Departments before the 5th respondent college constrained W.P.No.29335 of 2012 etc., batch in which this Court, vide order, dated 11.08.2017 was pleased to allow the writ petition.

(ii) On the basis of the said common order passed by this Court on 11.10.2018 permission to the 3rd respondent to grant approval for appointment of the writ petitioners in those writ petitions in W.P.No.29335 of 2012 etc., batch was accorded. Despite the 2nd respondent having considered the grievances of similarly placed persons like the petitioner for grant of approval for their appointment who are working in various departments in the 5th respondent college from the date of their initial appointment in the sanctioned aided vacancy. The respondents 2 and 3 are failed to redress the grievances of the petitioner. Hence, the petitioner made a representation before the 2nd respondent dated 23.12.2023 with a copy to grant of approval for the petitioner's appointment as Assistant Professor in the Department of English in



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the 5th respondent. Since the same was not considered, the present writ petition came to be filed.

3. Heard, the learned Counsel appearing for the petitioner and the learned Government Advocate (CIVIL) appearing for the respondents 1 to 3, learned Counsels appearing for the respondents 4 and 5. Carefully perused the materials available on record.

4. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondent to consider the same on its own merits and pass appropriate orders in one way or other instead of keeping the same pending indefinitely. As such, non-consideration of the representation made by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking the extraordinary powers under Article 226 of the Constitution of India.



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5. It is made clear that without going into the merits of this case, this Court hereby direct the petitioner to make a representation before the 5th respondent College with immediate effect. On receipt of the same, the 5th respondent College is directed to sent a proposal for the grant of approval of the appointment of the petitioner as the Assistant Professor to the 2nd respondent. On receipt of the same, the 2nd respondent is directed to pass appropriate orders in accordance with law within a period of eight (8) weeks therefrom.

6. Accordingly, this Writ Petition stands disposed of. No costs.

20.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
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L.VICTORIA GOWRI, J.

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