



WP.(MD).No.2261 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 02.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.2261 of 2024

Dr.K.Mabel Jain

... Petitioner

Vs.

1.The State of Tamil nadu,
Rep. 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 Nager,
Tirunelveli – 627 008.

4.The Registrar,
Manonmaniam Sundaranar University,
Tirunelveli District.

5.The Secretary cum Correspondent,
Women's Christian College,
Nagercoil,
Kanyakumari District.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the third respondent herein to approve the petitioner's appointment as Assistant Professor in the Department of Tamil in the 5th respondent College in the sanctioned vacancy caused due to the retirement of Mrs.Malliga Thomas with retrospective effect from 01.06.2009 to 23.06.2014 in the light of the proceedings passed by the second respondent herein vide Na.Ka.No.17896/F1/2022 dated 01.06.2022 on the basis of the order passed in W.P.No.10530 of 2017 dated 06.10.2017 with monetary and all other service benefits.

For Petitioner : Mr.B.Brijesh Kishore
For Respondents 1 to 3 : Mr.P.T.Thiraviyam
Government Advocate
For 4th Respondent : Mr.N.Mohammed Imran,
For M/s.Ajmal Associates
For 5th Respondent : Mr.F.Deepak

ORDER

This Writ Petition has been filed for issuance of a Writ of Mandamus seeking to direct the third respondent herein to approve the petitioner's appointment as a Assistant Professor in the Department of Tamil in the 5th respondent College in the sanctioned vacancy caused due to the retirement of Mrs.Malliga Thomas with retrospective effect from 01.06.2009 to 23.06.2014 in the light of the proceedings passed by the second respondent herein vide Na.Ka.No.17896/F1/2022 dated 01.06.2022 on the basis of the



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order passed in W.P.No.10530 of 2017 dated 06.10.2017 with monetary and all other service benefits.

2.Heard Mr.B.Brijesh Kishore, learned counsel appearing for the petitioner, Mr.P.T.Thiraviyam, learned Government Advocate appearing for the respondents 1 to 3, Mr.N.Mohammed Imran, for M/s.Ajmal Associates, learned counsel appearing for the fourth respondent, Mr.F.Deepak, learned counsel appearing for the fifth respondent and perused the entire materials available on record.

3.The petitioner was temporarily appointed as a Lecturer, in the Department of Tamil in the fifth respondent College as per the proceedings of the fifth respondent dated 25.02.2002. Thereafter, she was absorbed as Assistant Professor in the same Department in the sanctioned aided vacancy, which occurred due to the retirement of the then incumbent Mrs.Malliga Thomas with effect from 01.06.2009. Presently she is serving as Assistant Professor in the fifth respondent College. Vide proceedings of the third respondent dated 10.09.2015, her appointment was approved as Assistant Professor in the Department of Tamil with effect from 24.06.2014 forenoon. Since the respondents 2 and 3 did not approve the



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petitioner's appointment as Assistant Professor in the Department of Tamil with effect from 01.06.2009 to 23.06.2014 in the sanctioned aided post in the fifth respondent College, the petitioner has made a detailed representation before the second respondent on 04.10.2016. However, the same was not considered.

4.Hence, she filed W.P.No.10530 of 2017 and this Court passed an order on 06.10.2017, directing the first respondent to dispose of her representation dated 04.10.2016. Following which, the fourth respondent vide proceedings dated 01.02.2018, approved her educational qualification for Assistant Professor in the Department of Tamil from 01.06.2009 to 23.06.2014 as per UGC norms. The respondents 2 and 3 did not approve the petitioner's appointment as Assistant Professor in the Department of Tamil with effect from 01.06.2009 to 23.06.2014. Hence, the petitioner approached the second respondent and requested to consider her grievance in the light of the order passed in W.P.No. 10530 of 2017 dated 06.10.2017. The second respondent vide proceedings dated 01.06.2009 accorded permission to the third respondent to grant approval to the petitioner as Assistant Professor in the Department of Tamil with retrospective effect from



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01.06.2009 to 23.06.2014. Even after the receipt of the said proceedings passed by the second respondent, the third respondent has not acted upon. However, the same was not considered. Hence, the Writ Petition came to be filed.

5.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.

6.In view of the same, without going into the merits, this Court hereby directs the third respondent to act upon the representation of the petitioner in light of the proceedings passed by the second respondent dated 01.06.2022 and to pass appropriate order in accordance with law within a period of twelve weeks from the date of receipt of copy of this order.



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WEB COPY 7. Accordingly, this Writ Petition stands disposed of. There shall be no order as to costs.

02.02.2024

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

To

1. The Principal Secretary,
The State of Tamil nadu,
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,
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L.VICTORIA GOWRI, J.

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