



WP(MD)No. 11357 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 30.01.2025

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THE HONOURABLE MR. JUSTICE B.PUGALENDHI

WP(MD)No.11357 of 2021

Dr.Jessie Theodore

... Petitioner

versus

1. The Director of Collegiate Education,
Chennai.

2. The Joint Director of Collegiate Education,
Tirunelveli Region,
Tirunelveli – 628 008.

3. The Secretary,
Sarah Tucker College,
Palayamkottai – 627 002,
Tirunelveli District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, to direct the 3rd respondent to submit the salary proposal of the petitioner to the respondents 1 and 2 and to disburse the salary of the petitioner from the date of appointment, i.e. from 29.05.2009.

For Petitioner : Mr.G.Prabhu Rajadurai



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For R1 and R2 : Mr.K.Balasubramani,
Special Government Pleader
For R3 : No appearance

ORDER

The petitioner claims that she was appointed as a Lecturer in Mathematics, by the order of the third respondent dated 29.05.2009, in the third respondent College and since then, she was working as a Lecturer in the College. However, the proposal for approval was made by the Management only on 28.03.2019. The petitioner has filed a writ petition before this Court in WP(MD)No.24013 of 2019 claiming approval of appointment and this Court, by order dated 14.11.2019, directed the second respondent / Joint Director to consider the petitioner's representation within a stipulated time limit. Accordingly, the Joint Director of Collegiate Education, Tirunelveli, has approved the proposal made by the third respondent on 11.03.2020, however, cancelled it on 12.03.2020 that there was some error. This order of cancellation was challenged by the petitioner before this Court in WP(MD)No.7642 of 2020 and this Court has granted an interim order of stay on 12.03.2020. While so, the Director of Collegiate Education has withdrew the cancellation letter dated 12.03.2020 and consequently, the



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Joint Director of Collegiate Education has also withdrawn the earlier cancellation order of approval and intimated the same on 07.06.2021.

Therefore, according to the petitioner, her appointment has been regularized with effect from 17.06.2009 and she is entitled for salary.

2. Learned Special Government Pleader for the second respondent took a stand that they have not received any proposal from the third respondent.

3. The learned counsel appearing for the petitioner submitted that similarly placed Lecturers, who have been appointed along with the petitioner, have filed writ petitions before this Court in WP(MD)Nos. 29571, 29594, 29595 of 2023 and obtained relief. He further submitted that the appeals preferred by the Government in WA(MD)Nos.1354 to 1363 of 2024 as against the orders passed by the Writ Court were dismissed with a cost of Rs.50,000/-. Therefore, according to the learned Counsel, the petitioner is entitled for salary.

4. The learned counsel for the third respondent circulated a memo



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that he was engaged by the erstwhile Secretary of the third respondent College and that the Management has now been changed. The present Secretary is the appropriate person and that the then Secretary, for whom the Counsel filed vakalath, is no longer holding the post of Secretary and there is no instruction from him.

5. This Court is not inclined to accept this memo that in view of the change in administration of the Management, the counsel is not having any instructions. The counsel entered appearance on behalf of the Secretary of the College and not in the Secretary's personal capacity. It appears that the present Management has not instructed to withdraw the vakalath. The memo has been filed on 03.01.2025. It is not known as to whether the Counsel has duly intimated the third respondent about this memo. The third respondent has not made any arrangements for engaging a new Counsel.

6. This Court considered the rival submissions made by the respective parties.



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7. The third respondent College is an aided minority institution.

The then Management, at the fag end of their tenure, made appointments in the vacancies on 11.08.2008. Thereafter, a new Management assumed office after election, terminated the appointments made on 17.11.2008. From the report of the Joint Director, it appears that issue went upto the Hon'ble Supreme Court. While so, the then Management has made fresh appointments on 29.05.2009. However, the proposals have not been made for 12 years for approval of the appointments.

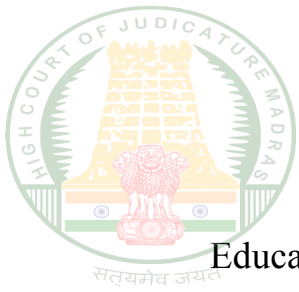
8. The petitioner was appointed by the new Management and the first batch of Lecturers were discharged from duty. The expelled Lecturers (first batch) have filed a batch of writ petitions, which were dismissed by this Court on 28.05.2009, however, in the writ appeals preferred by the expelled Lecturers, a Division Bench of this Court allowed the writ appeals on 26.03.2010. Challenging the same, the Management filed a Special Leave Petition before the Hon'ble Supreme Court in SLP No.10478 to 10498 of 2011. The Hon'ble Supreme Court, by order dated 30.04.2010, granted *status quo*. Therefore, the petitioner and others, who have been appointed by the new Management, continued



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to work as Lecturers. The Hon'ble Supreme Court, by order dated 09.01.2019, allowed the Special Leave Petitions, upholding the orders passed by the learned Single Judge in the writ petitions. Challenging the same, the expelled Lecturers (first batch) filed review petitions before the Hon'ble Supreme Court in Rev.P.(C)Nos.815 to 822 of 2019 and the same was dismissed by the Hon'ble Supreme Court, by its order dated 10.04.2019.

9. It appears that in view of litigations, there was some delay for the Management in sending the proposal for approval. After the orders of the Hon'ble Supreme Court, the Management sent the proposal and the University has also sent qualification approval for all the staffs with effect from 29.05.2009, vide its letter dated 13.03.2019 and 15.03.2019. Thereafter, approval was granted to 19 staffs of St. John's College on 10.03.2020 and 12 staffs of Sarah Tucker College on 11.03.2020 respectively, but, the same was subsequently cancelled by the Joint Director of Collegiate Education, Tirunelveli, on 12.03.2020. Thereafter, the Director of Collegiate Education, Chennai, by his letter dated 19.04.2021, cancelled the order passed by the Joint Director of Collegiate



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Education, Tirunelveli, dated 12.03.2020. Based on that, the Joint Director of Collegiate Education, Tirunelveli, sent a letter to the Management to send salary bill in respect of the staffs. Thereafter, the salary was disbursed to the Staffs from 2009 to June 2022. Now, the petitioner has approached this Court, seeking arrears of salary for the period from 2009 to June 2022.

10. Though the learned Special Government Pleader submits that there was no proposal from the year 2009, it appears that on 26.03.2010, the Division Bench of this Court in W.A.(MD)No.279 of 2009 etc. (batch cases) allowed the writ appeals in favour of the first batch of Lecturers. Therefore, there cannot be any proposal from the Management from the year 2009. At the same time, the Hon'ble Supreme Court, by its order datd 30.04.2010, granted status quo and permitted second batch Lecturers (including the petitioner) to continue to work and the petitioner has been working in the 3rd respondent College from the date of her appointment.

11. It is not in dispute that similarly placed persons filed writ



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petitions before this Court in W.P.(MD)No.29595 of 2023 etc. (batch cases) and they have obtained order in favour of them and the writ appeals filed by the Department in W.A.(MD)Nos.1354 to 1363 of 2024 were also dismissed by the Division Bench of this Court, with exemplary cost of Rs.50,000/-, on 13.08.2024. Therefore, the petitioner alone cannot be denied the benefits, considering the financial liability of the Government.

12. In view of the order passed by this Court in similarly placed person in W.P.(MD)No.29595 of 2023 etc. (batch cases), and the orders passed by this Court in W.A.(MD)No.1354 to 1363 of 2024, this writ petition is allowed and the respondents are directed to pay the arrears of salary due to the petitioner from the year 2009 to June 2022, within a period of six months from the date of receipt of a copy of this order. No costs.

30.01.2025

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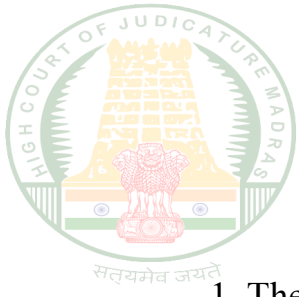
NCC : Yes / No.

Index : Yes / No.

Internet: Yes / No.

To

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