



W.A.MD) No.1024 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 27.03.2025
Delivered on : 08.04.2025

CORAM:

THE HONOURABLE **DR.JUSTICE G.JAYACHANDRAN**

AND

THE HONOURABLE **MS.JUSTICE R.POORNIMA**

W.A(MD)No.1024 of 2022
and
C.M.P(MD)No.8284 of 2022

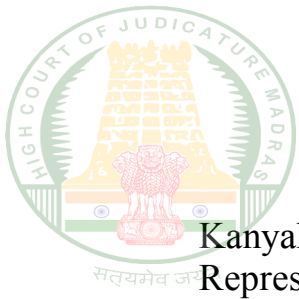
T.Asenath Benitta

... Appellant/Petitioner

-Vs-

- 1.The Director of Collegiate Education,
Chennai-600 006.
- 2.The Joint Director of Collegiate Education,
Tirunelveli-627 007.
- 3.The Manonmaniam Sundaranar University,
Abishekapatti, Tirunelveli,
Represented by its Registrar.
- 4.The Nesamony Memorial Christian College,
Marthandam-629 165,
Kanyakumari District,
Represented by its Correspondent/Secretary.
- 5.The Governing Board of Nesamony Memorial Christian College,
Marthandam-629 165,

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Kanyakumari District,
Represented by its Chairman,
The Bishop of Kanyakumari Diocese, CSI.

6.The Appointment Committee of Nesamony Memorial Christian College,
Marthandam-629 165,
Kanyakumari District,
Represented by its Chairman
The Bishop of Kanyakumari Diocese, CSI

7.Mrs.Ajitha Sweethly

...Respondents/Respondents

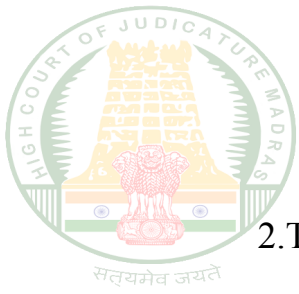
PRAYER: Writ Appeal filed under Clause XV of the Letters of Patent Appeal,
against the order of this Court dated 01.08.2022 made in W.P(MD)No.12839 of
2014.

For Appellant	: Mr.G.Sankaran, Senior Counsel for Mr.Arun Prasad
For R1 and R2	: Mr.V.Om Prakash, Government Advocate
For R3	: No appearance
For R4 to R6	: Mr.G.Sailendra Babu
For R7	: Mr.N.Dilipkumar

JUDGMENT

DR.G.JAYACHANDRAN, J.
AND
R.POORNIMA, J.

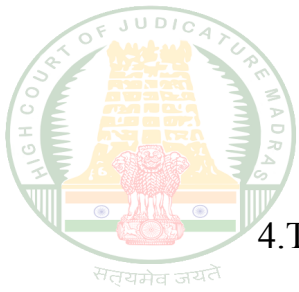
The appellant herein aggrieved by the dismissal of her writ petition
W.P(MD)No.12839 of 2014 on 01.08.2022, by a learned Single Judge is before
the Bench.



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2.The Appellant herein, in her writ petition, sought for issuance of a Writ of Mandamus directing the Director of Collegiate Education to grant qualification approval for her appointment as lecturer (in other words 'Assistant Professor') in Physics in the 4th respondent/Nesamony Memorial Christian College, Marthandam, Kanyakumari District, an institution run by religious minority called Kanyakumari Diocese, CSI.

3.According to the appellant, she joined the 4th respondent College as Assistant Professor (Physics) on 03.09.2009. At the time of her appointment, she was holding M.Sc., M.Phil., degree in Physics. On the date of her appointment, she was fully qualified to hold the post of Assistant Professor. Her appointment was on the score of the retirement of the Assistant Professor, who was working in the sanctioned post. However, in the year 2014 after lifting the ban on recruitment, out of three Assistant Professors, appointed on 03.04.2009 for other two Assistant Professors, the Governing Body of the College resolved to appoint them in the existing vacancy, whereas left out the writ petitioner alone. The act of the management is therefore arbitrary and illegal.



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4.The Department as well as the Management opposed the writ petition on the ground that, the writ petitioner and two others were appointed in the 4th respondent College on 03.09.2009. The Collegiate Directorate permitted the college to fill up the vacancies only in the year 2014, after lifting the ban on recruitment. At the time of appointing the writ petitioner and others, UGC guidelines of the year 2006 was in force. According to the UGC regulation 2006, possession of NET/SLET certificate for the post of the Assistant Professors in UG course is exempted, if the candidate possess M.Phil degree. However, in the year 2014, UGC amended its regulation and made Ph.D., or NET/SLET mandatory for the post of Assistant Professors. So on the date of the permission granted to fill the vacancy, only two among the three persons appointed on 03.09.2009 were found eligible. The writ petitioner, who did not possess NET/SLET or Ph.D., Degree was found not eligible, hence, her name was not considered to fill up the third vacancy.

5.The averment of the writ petitioner that her initial appointment was for the vacancy in the aided post and on the date of her appointment she was exempted from possessing NET/SLET or Ph.D., hence, only the old UGC 2006 alone apply to her was negatived by the learned single Judge accepting the plea of



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the Management and the Government that the writ petitioner was kept under the self finance category only, since there was no permission to fill the vacancy in the aided post. The writ petitioner got her Ph.D., degree only in the year 2018. Her candidature will be considered in the future vacancy under the aided category.

6.The Learned Senior Counsel appearing for the appellant, referring the Hand Book issued by the Management and the circular issued by UGC with regard to qualification criteria prior to amendment, strongly submitted that, for the candidate appointed pursuant to the advertisement prior to UGC notification dated 18th September 2010, the regulation on the date of advertisement has to be followed. Therefore, the appellant, who was appointed on 03.09.2009 is governed only by the old UGC Regulations 2006 and not the amended regulations of the year 2010. He further submitted that, the approval of the appointment got delayed due to the recruitment ban till 2014. When the candidature of the appellant taken up for consideration in the year 2014, the amended regulation which came into force in 2010 applied to disqualify the appellant. The clarification given by UGC on 30.08.2016 makes clear that the amended regulation of the year 2010 cannot be applied to the appellant, who was appointed prior to 18.09.2010. Hence, the order of the learned single Judge to be set aside and the appellant to be appointed in the



vacancy arose in the sanctioned post.

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7.In support of his arguments, the learned Senior Counsel for the appellant relied upon the following judgments to buttress the point of law stated against it:-

(i)State of Tamilnadu and 2 others –vs- Dr.S.Sukumaran and another, in W.A. No.474 of 2013 dated 03/04/2013,

Once appointment of a person in a sanctioned post is made in accordance with law, no prior permission from the Directorate of Collegiate Education is required.

(ii)P.Ravichandran –vs- State of Tamilnadu and 2 others in W.A.No.2318 of 2011 dated 11/10/2013:

“(1) There is no requirement under the [Tamil Nadu Private Colleges \(Regulation\) Act, 1976](#) and Tamil Nadu Private Colleges (Regulation) Rules, 1976, to seek prior permission to fill up any vacant post in an aided college, which has already been sanctioned for the academic year by the Director of Collegiate Education under Rule 11(1) of the Rules.

(2) If the appointment made by the College Committee in the sanctioned vacant post is in violation of any of the statutory provision, it is open to the Regional Joint Director of Collegiate Education to deny grant-in-aid to the said person appointed in the vacant post.



(3) *The teaching staff appointed must be fully qualified, whose qualification is approved by the University to which the college is affiliated. Insofar as the non-teaching staff are concerned, the candidate must possess the qualification prescribed by the Government.*

(4) *The College Committee while filling up the vacant post, should follow the procedures stated in Rule 11(1A) to 11(4)(ii).*

(5) *If there is no rival candidate for any post, the appointment is bound to be approved for the purpose of payment of pay and allowances, by the Regional Joint Director of Collegiate Education.*

(iii)State of Tamilnadu and two others –vs- The Secretary, Nirmala College for Women, Coimbatore, in W.A.Nos.2096 and 2124 of 2019:-

“6.Rule 11 (1) of the Tamil Nadu Private Colleges (Regulation) Rules, 1976, contain a legislative mandate to fix the staff strength every year. Rule 11(3) provides that in case of regular vacancy, it is open to the Management to fill up the post on regular basis, the only requirement being that the candidate should be qualified.”

8.Per contra, the counsels appearing for the State as well as the learned counsel appearing for the Management reiterated their case that the appellant was never appointed in the regular sanctioned vacancy. She was appointed only in the

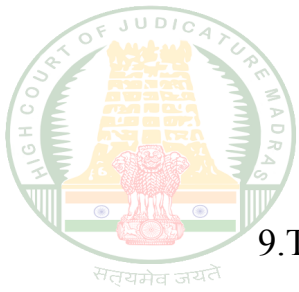


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self finance scheme of course and was asked to teach UG class. Only in cases of appointment in the regular vacancy, the judgments and the clarification of UGC issued in the year 2016 will apply and not for the appellant, who was not appointed in the sanctioned regular vacancy. The appellant had acquired the requisite qualification to hold the post of Assistant Professor to take classes for both UG as well as PG was only in the year 2018 and not earlier. UGC (Minimum Qualifications required for the appointment and career advancement of Teachers in Universities and Institutions Affiliated to it (Second Amendment Regulations, 2006) dated 14th June, 2006 had clarified about the requisite qualification for the post of Lecturer teaching UG and PG as below:-

Existing regulation: “NET shall remain the compulsory requirement for appointment as lecturer even for candidates having Ph.D. Degree. However, the candidates who have completed M.Phil degree or have submitted Ph.D., thesis in the concerned subject upto 31st December, 1993 are exempted from appearing in the NET examination.”

Substituted with : - “NET shall remain the compulsory requirement for appointments as Lecturer for those with post-graduate degree. However, the candidates having Ph.D., degree in the concerned subject are exempted from NET for PG level and UG level teaching. The candidates having M.Phil degree in the concerned subject are exempted from NET for UG level teaching only.”



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9.The appointment committee of the 4th respondent College in its minutes dated 2nd September, 2009 had resolved to appoint the appellant herein and two others in the post of lecturer in Physics. In the hand book of the College, the names of the appellant and two other lecturers appointed on the same day is placed under the caption: Physics Faculty; - Aided – Awaiting Approval. Taking advantage of the entry in the hand book, the learned Senior Counsel argued that the name of the appellant is shown under the caption aided and awaiting approval and not under Self Finance as in case of other subjects.

10.This Court cannot take into consideration what the Management claims in their internal hand book. We are concern only with the records submitted to the Government regarding the appointment of the appellant in their institute. No records available to show that the State was informed by the Management about the appointment of the appellant in the post of Lecturer, after the lifting of ban on recruitment. The 4th respondent Management states that the appellant and others were appointed only in the self finance sections. The other two were possessing Ph.D., degree so, subsequently appointed in the aided post after the permission granted by the Government. Contrarily, this appellant, who was appointed in the self finance section through the Employment Bureau of CSI and got her Ph.D.,



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only in the year 2018 and was not qualified to be appointed as Lecturer / Assistant Professor in the aided section in the year 2014.

11. Therefore, we find that the appellant had no required educational qualification on 04.09.2009 to hold the post of Lecturer in Physics to teach PG classes and not appointed in the Aided Section . Her appointment during the ban period cannot be construed as appointment in the Aided Section. The clarification issued by UGC on 30.08.2016 is applicable to the candidates appointed in the sanctioned aided section and not for the candidates appointed in self finance sections. Therefore, we hold the Writ Appeal deserve to be dismissed. Accordingly dismissed. No costs. Consequently, the connected miscellaneous petition is also closed.

G.J., J.] & [R.P., J.]

08.04.2025

NCC : Yes / No

Index : Yes / No

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To

- 1.The Director of Collegiate Education,
Chennai-600 006.
- 2.The Joint Director of Collegiate Education,
Tirunelveli-627 007.



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DR.G.JAYACHANDRAN, J.

AND

R.POORNIMA, J.

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Predelivery Judgment made in
W.A(MD)No.1024 of 2022
and
C.M.P(MD)No.8284 of 2022

08.04.2025