
(2014) 10 MAD CK 0263

In the Madras High Court

Case No : Writ Petition (MD) No. 16116 of 2013 and M.P. (MD) Nos. 1 and 2 of 2013

S. Jasmin Sugantha Malar

APPELLANT

Vs

The Director of Collegiate Education

RESPONDENT

Date of Decision : 15-10-2014

Acts Referred:

Citation : (2014) 10 MAD CK 0263

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Judgement

T. Raja, J.—The petitioner/S. Jasmin Sugantha Malar has filed the present writ petition seeking issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 1st respondent/Director of Collegiate Education, Chennai, vide Na.Ka. No. 15856/F2/2010, dated 06.08.2010 quash the same, and direct the respondents 1 and 2 to approve her appointment as Lecturer/Assistant Professor in Chemistry in the 4th respondent college with effect from 13.06.2007 and disburse grant-in-aid towards her salary with all attendant benefits.

2. Heard both sides.

3. The petitioner has acquired B.Sc., M.Sc. and M.Phil degrees in Chemistry. She was appointed as a Lecturer on 13.06.2007 in the 4th respondent college in a vacancy caused due to the retirement of one Catherine Nesaraj on 31.03.2007. Even prior to her appointment on 13.06.2007, she served in the 4th respondent college in unaided post between 01.07.2005 and 13.06.2007. In the meanwhile, the 4th respondent college sought for approval from the 1st respondent to fill up three vacancies in the Department of Chemistry along with other vacancies in the same college. The Director of Collegiate Education, Chennai, permitted the 4th respondent college to fill up two posts in Chemistry along with five posts in other subjects, by proceedings dated 26.07.2007. When the 1st respondent has given approval for appointment of two persons namely, D. Helen and S.D.R. Kalai

Kathir with effect from 25.08.2007, the same was denied to the petitioner. Therefore, the petitioner was constrained to file W.P. (MD) No. 4986 of 2010, for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to approve her appointment as Lecturer in the 4th respondent college with effect from 13.06.2007, pursuant to the proposal submitted by the 4th respondent on 25.07.2007 and the letters dated 03.08.2007 and 03.08.2009 followed by a reminder dated 21.01.2010 and pass appropriate orders. Pursuant thereto, the impugned order has been passed citing a reason that the appointment of the petitioner was made without seeking prior approval of the 1st respondent. Challenging the said order, the petitioner has filed the present writ petition.

4. Taking support from a judgment reported in 2012(5) MLJ 670 in the case of Dr. S. Sukumaran vs. State of Tamil Nadu, Mr. Isaac Mohanlal, learned counsel for the petitioner submitted before this Court that the issue involved in this writ petition is squarely covered by the abovesaid decision, wherein, it has been held that for making appointment in a sanctioned post in a minority institution, there is no necessity to get prior permission from the Education Department.

5. In this context, it is pertinent to extract paragraph 9 of the judgment in Dr. S. Sukumaran's case (cited supra).

"9. The point arises for consideration in this writ petition is as to whether the petitioner is entitled to get his appointment approved from the second respondent as he is appointed in a sanctioned post in the fourth respondent aided minority college, in a retirement vacancy. The retirement vacancy arose on 31.05.2008, the fact about the availability of the post in the fourth respondent college as per the staff fixation order is not in dispute and the same is also not the contention raised by the second respondent in the reply to the RTI query. The petitioner having been appointed in a sanctioned post of the fourth respondent college and the fourth respondent college being a minority college, there is no necessity to get prior permission from the department and the said issue was considered by me in detail in W.P. No. 19715 of 2009, dated 31.3.2011 and a direction was issued to approve the appointment of the petitioner following the Division Bench judgments. In the recent Division Bench judgment in W.A. No. 2345 of 2011 dated 5.3.2012 also, same view is taken."

6. A perusal of the above judgment clearly shows that the said judgment can be made applicable to facts of the present case as well. When the 4th respondent college being a minority institution, has appointed the petitioner in a sanctioned post of a retirement vacancy which arose on 31.03.2007 due to the retirement of one Catherine Nesaraj, there is no necessity to get prior permission from the 1st respondent for approval of the appointment of the petitioner.

7. In view of the above, the impugned order dated 06.08.2010 is set aside and the Director of Collegiate Education, Chennai, 1st respondent herein, is directed to approve the appointment of the petitioner as a Lecturer/Assistant Professor in Chemistry in the 4th respondent college with effect from 13.06.2007 and pay

salary and other service and monetary benefits from the said date. The 1st respondent shall pass appropriate orders, approving the appointment of the petitioner within a period of three months from the date of receipt of a copy of this order. The writ petition is allowed accordingly. Consequently, connected miscellaneous petitions are closed. No costs.