

WEB COPY

WP No. 12891 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 07-07-2026

Pronounced on : 17.07.2026

CORAM

THE HON'BLE MR.JUSTICE T. VINOD KUMAR

WP No. 12891 of 2019

and W.M.P.Nos. 13218 and 13220 of 2019

Dr.M.Prabha Punniavathi

..Petitioner

Vs

- 1.The State of Tamil Nadu
Rep. by its Secretary
Department of Higher Education
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, Tirunelveli – 627 002.
- 4.Manonmaniam Sundaranar University
Rep. by its Registrar
Abishekapatti, Tirunelveli – 627 012.
- 5.The Correspondent/Secretary
Nesamony Memorial Christian College
Marthandam – 629 165
Kanyakumari District.

..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, praying to call for the records relating to the impugned order issued by the 2nd respondent Director of Collegiate Education in Na.Ka.No.24373/F2/2010 dated 08.10.2016, quash the same, and further direct the 2nd and 3rd respondents to release salary and other benefits to the petitioner as Assistant Professor in English with effect from the date of her original



appointment viz., 21.06.1999 and release the consequential benefits attached to it.

WEB COPY

For Petitioner:

Ms.N.R.Jasmine Padma
for Mr.L.Chandrakumar

For Respondents:

Mrs.Y.Kavitha for R1 to R3
Mr.S.Nambi Arooran for R4
for M/s.Ajmal Associates
Mr.P.Godson Swaminath for R5
for Issac Chamber

ORDER

Heard the learned counsel for the petitioner and Learned Government Advocate for the respondents No. 1 to 3 and learned counsel for the respondents No.4 and 5 and perused the records.

2. The petitioner, by the present petition, has assailed the action of the second respondent in issuing proceedings dated 08.10.2016 rejecting her application for release of her salary and other benefits as Assistant Professor in English with effect from her original appointment viz., 21.06.1999 in the 5th respondent College.

3. The brief facts giving rise to filing of the present petition are that the petitioner claims that she was appointed as Assistant Professor in English in the 5th respondent college wide appointment order dated 17.06.1999 against the vacancy that had arisen in the Department of English on 01.06.1999 due to



retirement of Dr. Adeline F. Selvaraj, who though had retired a month earlier was granted extension to continue till 31.05.1999, i.e., till the end of academic year.

WEB COPY

4. It is the further case of the petitioner that she was selected to the said post of Assistant Professor in English pursuant to the interview conducted by the Appointments Committee/governing body on 02.09.1998 and placed her in the wait list to be accommodated in the post of Assistant Professor as and when the vacancy occurs; that the Executive Committee which is the highest Administrative Committee of the fourth respondent approved her selection and wait listed her for appointment vide resolution dated 22.05.1999 and 23.05.1999 to be absorbed in the vacancy arising from 01.06.1999.

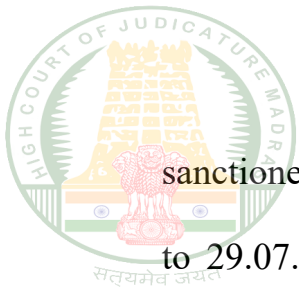
5. The petitioner contended that at the time of her selection and appointment, the 5th respondent college had sanction to appoint 12 posts in the Department of English based on staff fixation made in the year 1991-1992; that when she was interviewed and wait listed, there were two existing vacancies; that on the private respondent sending her appointment to the respondent authorities for approval, the respondents did not accord approval for long time on the ground that prior permission was not obtained from the second respondent to fill up the vacancy, that the second respondent subsequently, by proceedings dated 28.10.1999 had made staff fixation for the 5th respondent college for the year 1999-2000; that in so far as, Department of English is



concerned, second respondent has fixed 11 posts as the sanctioned staff with one post under the scheme of redeployment to another college; and that approval for her appointment was left pending for want of direction from the Director of College/second respondent.

6. It is the further case of the petitioner that in the year 2007, the Government vide G.O.Ms.No. 211 Higher Education Department dated 03.07.2007, directed the second respondent to permit the management of the Aided Colleges to appoint Lecturers in the available vacancies; that pursuant to the said order, the second respondent vide proceedings dated 26.07.2007 permitted the 5th respondent College to fill up 3 posts in the Department of English, among 13 other posts in various Department of the College permitted to be filled up; that as she was financially struggling due to the non-approval of her appointment from 21.06.1999, the 5th respondent College decided to accommodate her in one of the three posts permitted to be filled by the second respondent; that the aforesaid decision was taken without prejudice to her right to seek approval of her appointment from 21.06.1999; that she was accordingly appointed as a Assistant Professor in one out of the three sanctioned post with effect from 30.07.2007; that the fourth respondent thereafter granted qualification approval wide proceedings dated 16.10.2007, and the third respondent wide proceedings dated 06.11.2008 approved her appointment against the sanctioned post with effect from 30.07.2007.

7. The petitioner contends that though she was appointed against the



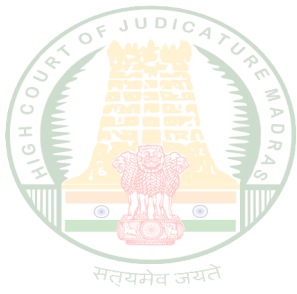
sanctioned vacancy with effect from 30.07.2007, the period between 21.06.1999 to 29.07.2007 remind unapproved, despite several efforts and representations from her side and thus, the petitioner approached this Court by filing a writ petition wide W.P.No. 17385 of 2010 claiming salary from the year 1999 onwards by taking into consideration that her appointment was in retirement vacancy caused upon the retirement of Dr.Adeline F.Selvaraj; and that this Court by order dated 22.07.2015 directed the second respondent to consider her representation; that as there was a delay in complying with the aforesaid order of this Court, she has initiated action under the Contempt of the Courts Act 1971, vide Cont.P.No.2103 of 2016; that the second respondent subsequently vide proceeding dated 08.10.2016 rejected her request for granting approval of her appointment with effect from 21.06.1999.

8. Petitioner further contend that the second respondent while rejecting her request seeking approval of her appointment with effect from 21.06.1999, gave the reasons for such rejection as under:

(i) one Mr.G.Suhithar Bauz was appointed with effect from 21.02.2000 and was working in the 11th post;

(ii). that another one Mrs.Rohini Thilakavathy Thomas worked in the 10th post.

(iii).that the petitioner was appointed in the



WEB COPY



vacancy caused by Dr.Adeline F.Selvaraj which is an excess vacancy, since, only 11 posts were fixed for English Department in the college;

(iv). that the petitioner was appointed in an excess post, her appointment has to be considered as an appointment made in self-finance course;

(v). that her claim cannot be compared with Mr.S.Arul John Bennet's appointment in the History Department

(vi) Since, only 11 posts were fixed in English Department in the academic year 1999-2000, her appointment cannot be approved; and

(vii). that the redeployed staff numbering 3 has come back from Lakshmipuram Arts and Science College, Neyyoor.

9. The petitioner contended that the reasons stated by the 2nd respondent in refusing to accord approval for her appointment is untenable, since, on the date when Dr.Adeline F.Selvaraj had retired, the sanctioned post which were permitted to be filled up were 12 posts. Even before the retirement of Dr.Adeline F.Selvaraj, there existed two vacancies in the 5th respondent college and as such, the vacancy caused due to the retirement of Dr.Adeline F.Selvaraj



cannot be considered as excess vacancy as he was working in a regular sanctioned post; and that G.Suhithar Baus having been appointed w.e.f. 21.02.2000, while she having been appointed w.e.f. 21.06.1999, her appointment should have been considered over the subsequent appointment and that her appointment cannot be considered in the self-finance course but it is a regular vacancy/permanent post.

10. Contending as above, the petitioner seeks for setting aside the impugned proceeding and to consider her appointment w.e.f., 21.06.1999 as against 30.07.2007.

11. Counter affidavit on behalf of the respondents 1 to 3 is filed.

12. The respondents, by the counter affidavit while denying the writ averments contended that the 5th respondent College is a minority aided college; that based on the staff fixation made in the year 1991-1992, there were 12 posts fixed in the Department of English; that at the relevant point of time, as 15 Lecturers were working in the Department, 3 Lecturers were considered as surplus and were redeployed to other colleges; that the management of the 5th respondent College submitted a revised workload for the year 1999-2000 to the second respondent after retirement of Dr.Adeline F.Selvaraj; that the second respondent after considering the workload and number of students fixed the



staff strength to be 11 posts in English Department for the Academic year 1999-2000 vide his proceedings dated 28.10.1999; that considering there was 9 existing Lecturers/Professors were permitted to work with the 5th respondent to fill up 2 posts additionally in the Department of English; and that the management of the 5th respondent College accepted the said order.

13. The respondents further contended that based on the said permission granted by the second respondent, the governing body of the 5th respondent College passed the Resolution to appoint Tmt.Rohini Thilakavathi Thomas w.e.f 30.10.1999 and Thiru.G.Suhithar Baus w.e.f. 21.02.2000 in English Department and their appointments were approved by the 3rd respondent and that the petitioner's name was not considered for appointment by the management of the 5th respondent College.

14. The respondents further contended that Mrs.Rohini Thilakavathi Thomas worked in the 10th post in English Department; that she was appointed in a regular vacancy w.e.f. 30.10.1999 that was approved w.e.f. 17.06.1986 in the retirement vacancy of Mr.V.Ponnusamy; and that Mrs.Rohini Thilakavathi Thomas appointment was approved by the 3rd respondent much earlier to the petitioner's appointment on 21.06.1999; that the management of the 5th respondent sent the proposal of Mr. G.Suhithar Baus who was appointed on 21.02.2000 for approval to the 3rd respondent; and thus, his appointment was



approved after scrutinising the relevant records by the 3rd respondent in the 11th sanctioned post of the English Department; and that the petitioner was appointed w.e.f. 21.06.1999 in the 12th post in English Department by the management of the 5th respondent College which is an excess post as per 1999-2000 workload.

15. The respondents, by the counter affidavit also contended that the second respondent vide letter dated 26.07.2007 permitted the respondent college to fill up 3 posts in Department of English; that the appointment committee of the governing body of the 5th respondent college at its meeting held on 28.07.2007 passed necessary resolution to appoint the petitioner w.e.f. 30.07.2007 as Lecturer among one of the 3 posts permitted to be filled by the second respondent; and that the 4th respondent University had approved her qualification w.e.f 30.07.2007.

16. The respondents, by the counter affidavit further contended that though the petitioner had approached this Court earlier vide writ petition in W.P.No.17385 of 2010, seeking her appointment w.e.f 21.06.1999, this Court by its order dated 22.07.2015 directed the respondents to consider the petitioner's representation claiming salary from the year 1999 onwards; and that pursuant to the aforesaid direction of this Court, the second respondent considered the claim of the petitioner and rejected her appointment vide proceedings dated 08.10.2016 giving the reasons for rejection; that for the



academic year 1999-2000, the 5th respondent College was permitted only 11 posts in the Department of English; that as the petitioner was appointed in the 12th place, her appointment cannot be approved being an excess post.

17. The respondents, by the counter affidavit further contended that the respondents are unaware of the fact of petitioner having worked in the 5th respondent College from 21.06.1999; that the resolution passed by the appointment committee of the College as to petitioner's appointment was approved by the 3rd respondent only w.e.f. 30.07.2007; and that the petitioner has been paid salary regularly from the said date.

18. The respondents, by the counter affidavit further contended that on Dr.Adeline F.Selvaraj a Secondary Grade Lecturer in English retiring from service on 01.05.1999 which was extended till 31.05.1999 had fallen vacant from 01.06.1999; that the aforesaid vacancy arising on the retirement of Dr.Adeline F.Selvaraj was out of the 12th post approved for the Department of English, based on the staff fixation made in the year 1991 – 1992; that at that time, 15 Lecturers were working in the Department as against the sanction of 12 posts; that 3 Lecturers were considered as surplus and were redeployed to other Colleges; that as per 1999-2000 workload, only 11 posts were approved for English Department as per the order of the second respondent dated 28.10.1999 and since, 9 Lecturers were already working, the 5th respondents had forwarded



the names of the Mrs.Rohini Thilakavathi Thomas and Mr.G.Suhithar Baus against the remaining two vacancies; that the same were approved; that the petitioner who claims of having been appointed in May,1999 and placed in wait list by the 4th and 5th respondents cannot claim her appointment to be regularised by the official respondent from 21.06.1999, which if approved would result in 12 posts beyond the sanctioned posts; that the name of the petitioner was approved by the governing body of the 5th respondent only in July 2007; that the same was approved by the respondents w.e.f. 30.07.2007; and that if the petitioner has any grievance, it should be against the action of the 4th and 5th respondents and as such, the petitioner cannot claim salary from an earlier period from the official respondent.

19. In so far as, the claim of the petitioner comparing her case with, one Mr.S.Arul John Bennet appointed in the respondent College, it is contended that the said appointment was made in the History Department, as per the History Department workload, and the petitioner cannot compare her case with that another department which was approved by the 3rd respondent.

20. On behalf of the 5th respondent though no counter affidavit is filed, it is contended that the second respondent while fixing the post based on the workload for the year 1999-2000 though had mentioned 11 posts in the Department of English, in the Remarks column, it is mentioned as one post to



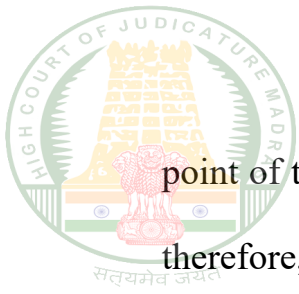
be filled by transfer and as such, the petitioner's appointment ought to have been approved by the respondents, instead of claiming her appointment as 12th post and an excess post.

21. On behalf of the 5th respondent, it is also contended that when the 5th respondent had sent the proposal for approving the appointment of the petitioner from 21.06.1999, the respondents had returned the proposal on the ground that her appointment has been made without prior approval; and that there is no requirement to obtain prior permission for appointment against the sanctioned post as held by the Division Bench of this Court in the case of ***P.Ravichandran vs. State of Tamil Nadu and others*** reported in (2013) 7 MLJ 641 and therefore, the respondent authorities are required to recognise the appointment of the petitioner w.e.f. 21.06.1999.

22. Contending as above, the respondents seek for dismissal of the writ petition.

23. I have taken note of the respective contentions urged.

24. It is interesting to note that the petitioner while making writ averments in the writ affidavit claiming that she having been appointed prior in



point of time to Mrs.Rohini Thilakavathi Thomas and Mr.G.Suhithar Baus and therefore, her appointment should be considered against the sanctioned post for the workload of 1999-2000, for the reasons best known did not choose to array the subsequent appointees as respondents in the writ petition.

25. Further, the petitioner also did not make any allegation with regard to the conduct of the 5th respondent in overlooking her appointment from 21.06.1999 and getting the subsequent appointments of Mrs.Rohini Thilakavathi Thomas and Mr.G.Suhithar Baus regularised against the sanctioned post numbering to 11 posts fixed by the second respondent based on the workload for the academic year 1999-2000.

26. Even in the earlier writ petition filed, the petitioner did not question the action of the 5th respondent in overlooking her appointment while getting approved the subsequent appointment made in October 1999, February 2000 respectively. If the respondent authorities did not accord approval for the appointment of the petitioner which the petitioner claims is w.e.f 21.06.1999 neither the petitioner approached this Court nor the 5th respondent College questioned the action of the respondent authorities in not according approval for petitioner's appointment against the existing sanctioned vacancy in the Department of English.

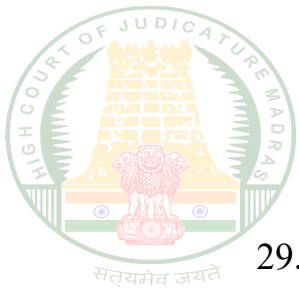
27. Further, though the 5th respondent felt that no prior



approval/permission is required from the respondent authorities for appointment of the petitioner and her appointment should be recognised by the respondents,

however, while appointing Mrs.Rohini Thilakavathi Thomas and Mr.G.Suhithar Baus in October 1999 and February, 2020 respectively did not adopt the same said stand as taken in the case petition. On the other hand, the 5th respondent forwarded the proposal to the 2nd and 3rd respondents for approval.

28. The 5th respondent for the reasons best known though is supporting the case of the petitioner now neither assailed the action of the respondent authorities in not according approval for the appointment of petitioner w.e.f 21.06.1999, when it is alleged to have been returned by the respondents on the ground of not having obtained prior permission nor included the name of the petitioner when they had sought approval of the appointment of Mrs.Rohini Thilakavathi Thomas by including the name of the petitioner without undertaking recruitment of Mr.G.Suhithar Baus in February 2020. If only the 5th respondent had included the name of the petitioner along with Mrs.Rohini Thilakavathi Thomas, there would be no need for the 5th respondent to appoint Mr.G.Suhithar Baus in February 2020. The said conduct on the part of the 5th respondent only goes to show that the 5th respondent having appointed the petitioner with a clear understanding that she would be paid under self-finance scheme and only in order to get salary for one additional post sanctioned as by way of transfer had put up the petitioner to front end the litigation.



29. If the claim of the petitioner accepted as correct, the fault lies with the 5th respondent in not forwarding the name of the petitioner for appointment, on the 2nd respondent fixing the number of post based on the workload for the academic year 1999-2000 to be 11 posts in Department of English vide its proceedings dated 23.10.1999. The 5th respondent having sought approval of Mrs.Rohini Thilakavathi Thomas on 30.10.1999 which is immediately within a week from the date of issuance of proceedings by the 2nd respondent fixing the sanctioned post for the year 1999 – 2000, could not have excluded or ignored the name of the petitioner being forwarded to the 2nd and 3rd respondents for approval, as two clear vacancies were available on the said day. If only the 5th respondent had forwarded the name of the petitioner along with the name of Mrs.Rohini Thilakavathi Thomas, the same would have resulted in the number of posts fixed for grant for the year 1999-2000 i.e., 11 posts being filled up and there would be no necessity or requirement for the 5th respondent to undertake further appointment in the month of February,2000. Since, it is solely on account of the actions of the 5th respondent, the petitioner appointment on 21.06.1999 was not made against the sanctioned post, this Court is of the view that it is only the 5th respondent who should be made responsible and liable for all the resultant consequences arising, if the claim of the petitioner is genuine.

30. Though on behalf of the 5th respondent, it is vehemently



contended that since, the respondents while issuing proceedings dated 23.10.1999 fixing number of posts for grant for the year 1999-2000, having stated one post to be filled by transfer, by accommodating the petitioner against the said post would subserve the purpose, it is to be noted that the said appointment of one post in excess of sanctioned post is a prerogative that has been reserved by the Government to itself to deploy a Lecturer from another College on account of various factors like excess sanctioned staff on account of reduction of the workload etc., in another College as had occurred with the 5th respondent College during the year 1991-1992, where 3 Lecturers were found surplus, than the sanctioned posts and were deployed to work in other College. Thus, the 5th respondent cannot seek for approval of appointment of the petitioner against such vacancy, thereby, getting stamp of approval on the illegal action undertaken by it in getting approval for the appointment made in February, 2000 overlooking the petitioner.

31. Since, the 5th respondent endorses the case of the petitioner now of having been appointed on 21.06.1999, without offering any plausible explanation as to why the 5th respondent failed to send the name of the petitioner along with Mrs.Rohini Thilakavathy Thomas name and instead undertook the appointment of Mr.G.Suhithar Baus in February, 2000, the appointment made by the 5th respondent of Mr.G.Suhithar Baus on February 2000 would have to be held to be illegal and in violation of staff fixation proceedings dated 23.10.1999.



That being so, the official respondents i.e., the State cannot be directed to regularise the services of the petitioner from the date being claimed by her without holding the appointment made by the 5th respondent in February 2000 as illegal appointment or making the 5th respondent liable for such action, thereby, burdening the State with liability to pay salary to the petitioner from 21.06.1999 to 29.07.2007 as having been appointed as a Lecturer in the sanctioned post. The 5th respondent having got approval for the appointment of Mr.G.Suhithar Baus from February 2000 against the sanctioned post though not entitled to, this Court is of the view that it is the 5th respondent who should be made liable to pay to the petitioner, the difference of salary that the petitioner is entitled to, by considering her appointment as on from 21.06.1999. It is for the reason that while the official respondents are not to be made responsible including financial aspect for not appointing the petitioner from 21.06.1999, as the finances of the State which is tax payer's money cannot be directed to be utilised for approving illegal action of the private respondent, which as noted herein above was solely attributable to the action of the 5th respondent in getting approval for the appointment of Mr.G.Suhithar Baus in February 2020 instead of petitioner.

32. In view of the aforesaid discussion, the writ petition is disposed of in the following terms:.



WEB COPY

(i).the order of the 2nd respondent dated 08.10.2016 to the extent it has rejected the claim of the petitioner for treating

as appointed to the post of English Lecturer w.e.f. 21.06.1999 is set aside;

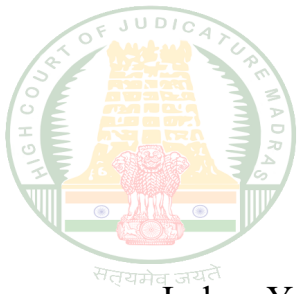
(ii). the official respondents 1 to 3 are directed to treat the appointment of the petitioner to the post of English Lecturer w.e.f. 21.06.1999 instead of 30.07.2007, without any financial burden whatsoever to the State.

(iii). the 5th respondent is directed to pay the difference of salary paid to the petitioner and the salary payable to her in the sanctioned post till 30.07.2007;

(iv).the respondents are at liberty to initiate necessary action to revoke the approval granted for the appointment of Mr.G.Suhithar Baus from February,2000; and

(v) till such time, the official respondents are successful in taking steps to revise the benefits that have been granted to Mr.G.Suhithar Baus in accordance with law, holding his appointment in February, 2000 to be illegal, the 5th respondent is made liable for all the consequential benefits attached to the petitioner's appointment being recognized from 21.06.1999.

Consequently connected miscellaneous petitions are closed. No costs.



17-07-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MSV

To

1.The Secretary

State of Tamil Nadu

Department of Higher Education

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, Tirunelveli – 627 002.

4.The Registrar

Manonmaniam Sundaranar University

Abishekapatti, Tirunelveli – 627 012.

5.The Correspondent/Secretary

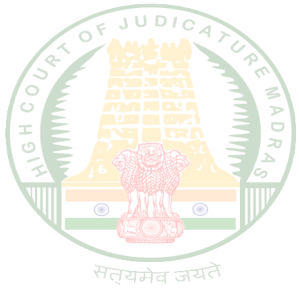
Nesamony Memorial Christian College

Marthandam – 629 165

Kanyakumari District.

T.VINOD KUMAR J.

MSV



WEB COPY

WP No. 12891 of 2



Pre-Delivery Order in

**WP No. 12891 of 2019
and W.M.P.Nos. 13218 and 13220 of 2019**

17-07-2026