

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2015

CORAM:

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

Writ Petition No.10649 of 2015

V.Gopal

... Petitioner

vs.

1.The Principal Secretary/State Commissioner,
Commissioner for the Differently Abled Persons,
K.K.Nagar, Chennai - 600078.

2.The Secretary, Social Welfare and NMP Department,
Fort St.George, Chennai -9.

... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of Mandamus, to direct the 1st respondent to regularize the fresh appointment of the petitioner with effect from the date of his initial appointment as P.G. Assistant on 26.12.1991 and consequently such appointment shall count for the purpose of promotion leave pension and increments with all consequential benefits without break in service of the petitioner and to direct the Respondents to promote the petitioner who was fully eligible to the Post of Principal with effect from 01.06.1995 on the day originally the principal post was fell vacant and subsequent promotions on which the petitioner was eligible to be promoted.

For Petitioner : Mr.R.Prabhakaran

For Respondents : Mr.S.Gunasekaran
Government Advocate

W E B C O P Y
O R D E R

The petitioner was appointed/promoted as PG Assistant in the Government Higher Secondary School for the Blind, vide proceedings dated 24.12.1991. His appointment was challenged by one P.Ganaselvaudayakumari before the Tamil Nadu Administrative Tribunal. The Tribunal upheld the appointment of the petitioner. As against the said order, the said P.Ganaselvaudayakumari filed a writ petition before this Court. This Court set aside the appointment of the petitioner as PG Assistant (Political Science).

The petitioner, therefore, took up the matter before the Apex Court in Civil Appeal No.7390 of 2011 (Arising out of SLP (civil) No.20405 of 2008).

2. The Apex Court in Paragraphs 11 and 12 held as follows:-

"11. ...We, therefore, feel that the whole process of selection and appointment was quite irregular and unsatisfactory and in those circumstances, we are unable even to sustain the appointment of the appellant to the post of P.G.Assistant (Political Science). We, accordingly, direct the concerned authority to take fresh steps for filling up the said post in accordance with the rules. The process of selection and appointment must be completed within three months from today. Needless to say that every eligible candidate for the post on the date of the notice for appointment would be entitled to make application and selection will be made in accordance with the rules.

12. Since the appellant is working on the post for the past about 20 years, he would continue on it till a fresh appointment is made, as directed above."

3. According to the petitioner, thereafter, he got selected to the post of PG Assistant (Political Science). The petitioner has come up with this writ petition seeking to regularise his fresh appointment with effect from the date of his initial appointment as P.G.Assistant on 26.12.1991.

4. I am of the view that the petitioner cannot seek a direction to regularise his service from 26.12.1991 in view of the aforesaid findings of the Apex Court. Hence, I am not inclined to issue a direction as sought for by the petitioner as the same was set aside by the Division Bench of this Court and upheld by the Apex Court.

5. For all the aforesaid reasons, the writ petition fails and accordingly, the same is dismissed. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

svki

To

- 1.The Principal Secretary/State Commissioner,
Commissioner for the Differently Abled Persons,
K.K.Nagar, Chennai - 600078.
- 2.The Secretary, Social Welfare and NMP Department,
Fort St.George, Chennai -9.

+1cc to Mr.R.Prabhakaran, Advocate, S.R.No.20726

+1cc to the Government Pleader, S.R.No.20562

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VSN(CO)
CA(07/05/2015)



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