

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.06.2015

CORAM

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

W.P.No.17087 OF 2015 &
M.P.No.1 of 2015

A.N.Rajalakshmi

... PETITIONER

Vs

1. State of Tamilnadu
Repd. by its Principal Secretary
School Education Department
Fort St. George, Chennai-600 009.
2. The Director of School Education
DPI Campus College Road,
Chennai- 600 006.
3. The Chief Educational Officer
Krishnagiri.

... RESPONDENTS

Writ petition is filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus to call for the records of the second respondent herein in Na.Ka.No. 102500/J1/2014 dated 07.01.2015 and quash the same and consequently direct the respondents herein to regularize the services of the petitioner in the post of Typist/Junior Assistant with effect from 19.02.1990 with all service benefits.

For Petitioner : Mrs.Dakshayani Reddy

For Respondents : Mr.V.Jayaprakash narayanan
Special Government Pleader

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O R D E R

With the consent of the learned counsel appearing on either side, the Writ Petition is taken up for final disposal at the admission stage itself.

2.The father of the petitioner was the Headmaster of the Panchayat Union Elementary School. He died on 29.01.1986. The petitioner passed Tamil Typewriting (Higher Grade) in May 1987 and English Typewriting (Higher Grade) in November, 1987. After the

demise of her father, she made a request to provide compassionate appointment and she was appointed as Typist by proceedings dated 19.02.1990 and she has been working for the past 25 years as Typist.

3.Though the petitioner has rendered 25 years of service, her services were not regularised on the sole ground that she did not possess the requisite qualification of passing in Tamil/English Typewriting as on 22.12.1986, the date on which she made an application for compassionate appointment.

4.It is not in dispute that the petitioner possessed the aforesaid qualifications in 1987, she was appointed only in 1990 and even before the date of her appointment, she was in possession of the requisite qualification.

5.Relying upon G.O.Ms. No. 560 Labour and Employment Department dated 03.08.1977, the Government refused to regularise the service of the petitioner in their proceedings in letter No.36536/bjh.f. 3CD/2011 dated 25.03.2014, when a proposal was sent by the Director of School Education, seeking the Government to regularise the service of the petitioner. The same was communicated by the Director of School Education in the proceedings dated 24.06.2014, which is enclosed in the typed set of papers.

6.Similar proceedings was issued by the Director of School Education on 07.01.2015, stating that the petitioner is not regularised in the post of Typist in view of the aforesaid Government letter dated 25.3.2014.

7.In these circumstances, the petitioner has filed this Writ Petition to quash the order dated 07.01.2015 of the Director of school Education/second respondent.

8.The aforesaid facts make it very clear that the Government is not correct in issuing its letter dated 25.03.2014, refusing to regularise the service of the petitioner based on G.O.MS.No.560 Labour and Employment Department dated 03.08.1977. The Government, in the instant case, should have invoked the power under Rule 48 of the Tamil Nadu Subordinate Service Rules and relaxed the qualification, since the petitioner has been in service for about 25 years and more particularly, the petitioner possessed the qualification, even much prior to the date of her appointment. These are the strong factors that made me to allow the Writ Petition, at the time of admission itself.

9.Hence, I am of the view that the orders dated 24.06.2014 and 07.01.2015, of the Director of School Education, Chennai, are set aside and the Director of School Education is directed to forward a fresh proposal to the first respondent Government to regularise the service of the petitioner as Typist/Junior Assistant from the date of joining the service i.e. on 19.02.1990, within a period of six weeks from the date of receipt of a copy of this order. The first

respondent on receipt of the said proposal, directed to pass appropriate orders regularising the services of the petitioner, within a period of three months from the date of receipt of the proposal from the Director of School Education and the first respondent if necessary could relax any conditions relating to appointment by invoking the provisions under Rule 48 of the Tamil Nadu Subordinate Service Rules. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rpa

To

1. The Principal Secretary
School Education Department ,
State of Tamilnadu,
Fort St. George, Chennai-600 009.
2. The Director of School Education
DPI Campus College Road,
Chennai- 600 006.
3. The Chief Educational Officer
Krishnagiri.

+1cc to M/s.Dakshayani Reddy, Advocate, S.R.No.29312
+1cc to the Government Pleader, S.R.No.29550

सत्यमेव जयते

W.P.No.17087 OF 2015

TM(CO)
CA(30/06/2015)

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