

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2016  
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.22640 of 2015  
and  
M.P.No.1 of 2015 and  
WMP.No.22336 of 2016

C.Shanthi

... Petitioner

Vs

1.Government of Tamil Nadu  
represented by its Secretary,  
Higher Education Department,  
Fort St. George,  
Chennai - 600 009.

2.The Director of Collegiate Education,  
College Road,  
Chennai - 600 006.

3.The Principal,  
Government Arts College,  
Paramakudi,  
Ramanathapuram District.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari mandamus calling for the records relating to the order in proceedings Na.Ka.No.45048/B4/1999 dated 30.06.2014 of the second respondent, quash the same and consequently direct the respondents to regularise the service of the petitioner in the post of Office Assistant from the date of her initial appointment with all consequential service and monetary benefits within a time to be specified by this Hon'ble Court.

For Petitioner  
For Respondents

: Mr.S.Mani  
: Mr.K.Dhananjayan, SGP

ORDER

By consent of both the parties, the main writ petition itself is taken up for final disposal.

2. The petitioner has filed this writ petition, challenging the order of the second respondent dated 30.06.2014 and consequently, directing the respondents to regularise the

service of the petitioner in the post of Office Assistant from the date of her initial appointment with all consequential service and monetary benefits within a time to be specified by this Court.

3. It is the case of the petitioner that by the proceedings of the third respondent dated 07.10.1996, she was appointed as Office Assistant in a sanctioned post, but on daily wage basis. Since she was appointed as a full time employee and completed 10 years without any break in service, the petitioner submitted a representation dated 05.10.2010 to the third respondent, who intun proposed to the second respondent to regularise the service of the petitioner. Finding no response, the petitioner filed a writ petition in WP.No.33257 of 2012 for a direction to the respondents to regularise her service based on the recommendation made by the third respondent. This Court by order dated 13.12.2012, disposed of the said writ petition, directing the respondents 1 and 2 to consider the representation of the petitioner and pass appropriate orders on merits and in accordance with law within a period of eight weeks. Pursuant to the same, the second respondent had passed an order dated 30.06.2014, rejecting the claim of the petitioner on the ground that the petitioner has not completed 10 years of service as stipulated in G.O.Ms.No.74 Personnel and Administrative Reforms (P&AR) Department dated 27.06.2013. The said order is assailed in this writ petition.

4. According to the learned counsel for the petitioner, the petitioner was appointed on regular basis and hence, the applicability of G.O.Ms.No.22 P&AR Department dated 28.02.2006 and G.O.Ms.No.74 P&AR Department dated 27.06.2013 to the case of the petitioner, may not be proper. He also brought to my attention the order dated 19.09.2014 passed by this Court in W.P.No.7884 of 2013, wherein, all those factors were considered in detail and a direction was issued to the respondents to pass orders, regularly appointing the petitioners therein from the date of initial appointment as full time scavengers in the proper scale of pay applicable to them with monetary benefits. Therefore, he submitted that as the petitioner herein is similarly placed person like that of the petitioners therein, the same order may be passed in this writ petition also.

5. Despite service of notice, no counter affidavit has been filed by the respondents.

6. Heard the submissions made on either side and perused the documents produced before this Court.

7. As claimed, the petitioner was appointed as Office Assistant in a sanctioned post through employment exchange on 07.10.1996. The claim of the petitioner that she completed 10 years of service as on 06.10.2006, has not been disputed. According to the petitioner, since her appointment was as per

Rule 4(1) of the Tamil Nadu Basic Service Rules, she is entitled to get regularisation of her service from the date of her initial appointment. It is no doubt true that G.O.Ms.No.22 P&AR Department dated 28.02.2006 and G.O.Ms.No.74 P&AR Department dated 27.06.2013 came to be passed, regularising the service of the daily wage workers on completion of 10 years of service.

8. Further, G.O.Ms.No.179 School Education Department dated 13.07.2012 came to be passed, regularising the service of Night Watchman, Gardeners and Scavengers from the date on which they joined in the regular post. It is also to be noted herein that the persons, in whose favour G.O.Ms.No.179 dated 13.07.2012 issued, were originally appointed as part time workers and thereafter, they were appointed as full time workers in the regular post, but were paid on daily wage basis. Though they were not appointed through employment exchange, they were considered and their services were regularised from the date on which they joined in the regular post.

9. It is also noteworthy to refer to the order of this Court dated 19.09.2014 made in WP.No.7884 of 2013 relied on by the learned counsel for the petitioner. The challenge made in the said writ petition was to G.O.Ms.No.92 School Education Department, dated 06.06.2012 and consequential proceedings of the second respondent in Na.Ka.No.9318/P4/1011 dated 11.12.2012, which were, after detailed enquiry, quashed by this Court. Further, a direction was issued to the respondents to regularly appoint the petitioners therein from the date of initial appointment as full time scavengers in the proper scale of pay applicable to the full time scavengers with all monetary benefits. In my considered view, as the issue involved in that writ petition as well as the present writ petition are similar, the aforesaid order dated 19.09.2014 made in WP.No.7884 of 2013 is squarely applicable to the facts of the present case.

10. For the reasons stated above, the impugned order dated 30.06.2014 passed by the second respondent cannot be sustained and is accordingly, quashed. The respondents are directed to pass appropriate order regularising the service of the petitioner in the post of Office Assistant from the date of her initial appointment with all consequential service and monetary benefits. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

11. The writ petition is allowed as indicated above. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. Government of Tamil Nadu  
represented by its Secretary,  
Higher Education Department,  
Fort St. George, Chennai - 600 009.
2. The Director of Collegiate Education,  
College Road, Chennai - 600 006.
3. The Principal, Government Arts College,  
Paramakudi, Ramanathapuram District.

+1cc to Mr.S.Mani, Advocate, S.R.No.55094

+1cc to the Government Pleader, S.R.No.54684

सत्यमेव जयते

(CO)  
CA(/12/2016)

W.P.No.22640 of 2015

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