

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2016

CORAM:

THE HON'BLE MR.JUSTICE B.RAJENDRAN

W.P.No.20803 of 2016

P.Andal

... Petitioner

Vs.

1. State rep. by
The Secretary,
Higher Education (2) Department,
Secretariat,
Fort St. George, Chennai - 600 009.

2. The Commissioner of Technical Education,
Directorate of Technical Education (Engineering),
Guindy, Chennai - 600 025.

3. The Principal,
Government Engineering College,
Salem - 11.

... Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of mandamus, to direct the respondents to pay each year's salary increment and other service benefits from the date of regularization viz., 30.03.2006 and pay the arrears thereof, consequently direct the respondents to pay terminal benefits payable to the petitioner upon her retirement.

For Petitioner : Mr.M.Elango

For Respondents: Mr.M.S.Ramesh,
Additional Government Pleader

ORDER

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

2. Mr.M.S.Ramesh, learned Additional Government Pleader, takes notice on behalf of the respondents.

3. The petitioner was appointed as a Sanitary worker in the Government Engineering College, Salem, by proceedings dated 07.01.1992, on temporary basis (daily wage of Rs.20/-). According to her, though she was working in the Government Engineering College, her service was not regularized by the 3rd respondent. Hence, she along with 15 others made a representation to the 1st respondent seeking regularization. Since the said representation was not considered, they filed a writ petition in W.P.No.6463 of 2005 and this Court, by an order dated 28.02.2005, directed the respondents to consider their representations. Thereafter, the first respondent passed G.O.Ms.No.113, regularizing her service with effect from 30.03.2006 and her name was placed at Serial No.10 in the annexure to the said G.O. In the said G.O., it is also stated that from the date of absorption, she can be allowed to get pay and allowance in the time scale of pay. But, the respondents had not paid time scale of pay, allowance and increment to her. The respondent had paid an increment for one year from the date of regularization. Thereafter, no increment and other allowance were paid to the petitioner and no salary revision was made. Further, the respondent had not enhanced her salary as per the pay commission's recommendation. In this regard, she made a representation to the respondents on 26.05.2016 seeking to increase her yearly salary for each year and also an order for getting the retirement benefits since she is going to retire from service. Now, the petitioner has filed the present writ petition seeking a direction to the respondents to pass orders on the said representation.

4. The learned counsel appearing for the petitioner submitted that the petitioner was working in the 3rd respondent college for a long time. Though her service was regularized on 30.03.2006, she was not paid time scale of pay. He further submitted that one C.Govindaraj, a co-worker, claimed retirement benefits to the Government, but, his claim was rejected. Aggrieved against which, he filed W.P.No.22702 of 2015 and this Court, on 31.07.2015, passed an order, directing the respondents to count 50% of service rendered before regularization along with the service rendered after regularization for the purpose of pension and other terminal benefits in the light of Rule 11 (2) of the Tamil Nadu Pension Rule. This order is applicable to the case of the petitioner also, since the said Govindaraj's service was regularized on 30.03.2006. Therefore, the respondents has to consider the claim of the petitioner.

5. The learned counsel appearing for the petitioner further submitted that the petitioner would be satisfied, if the respondents are directed to consider her representation dated 26.05.2016 and pass orders on merits and in accordance with law.

6. The learned Additional Government Pleader appearing for the respondents has got no serious objection for directing the respondents to consider the representation of the petitioner and pass appropriate orders, on merits and in accordance with law.

7. Considering the submissions made on either side, this Court, without going into the merits of the claim made by the petitioner, directs the respondents, to consider the representation of the petitioner, dated 26.05.2016, and pass appropriate orders, on merits and in accordance with law, as expeditiously as possible. It is made clear that this Court has not expressed any opinion with regard to the merits of the claim made by the petitioner.

8. The Writ Petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Higher Education (2) Department,
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Fort St. George, Chennai - 600 009.
2. The Commissioner of Technical Education,
Directorate of Technical Education (Engineering),
Guindy, Chennai - 600 025.
3. The Principal,
Government Engineering College,
Salem - 11.

1 cc to Mr.M.Elango, Advocate, sr.34298
1 cc to Government Pleader, sr.34131

W.P.No.20803 of 2016

rj co
kra 22.07.2016