

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 27-09-2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH

AND

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.A.No.1174 of 2016

- 1.The Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Fort St.George,
Chennai-600 009.
- 2.The Commissioner of Adi Dravidar Welfare,
Chepauk,
Chennai-600 005.
- 3.The District Adi Dravidar Welfare Officer,
Perambalur. ... Appellants /Respondents

-vs-

M.Ammasi ... Respondent/Petitioner

Appeal under Clause 15 of the Letters Patent against
the order of this Court, dated 14.06.2013, passed in
W.P.No.15941 of 2013.

WP.NO.15941/2013:Writ Petition filed under Article 226 of the
Constitution of India to issue a Writ of Mandamus Directing the
respondents to appoint the petitioner as Cook in Adi Dravida
Welfare Students Hostel and regularize the service of the
petitioner w.e.f. 1995 with all consequential benefits

For appellants : Mr.P.S.Sivashanmugasundaram,
Spl.Govt.Pleader

For respondent : Mr.L.Chandrakumar
for Mr.P.Arumugarajan

J U D G M E N T

(Judgment of the Court was delivered by S.Vaidyanathan, J.)

Peeved at the order passed by the learned single Judge, dated 14.06.2013, in W.P.No.15941 of 2013, directing regularisation of service of the respondent/writ petitioner on completion of ten years of service and to pay monetary benefits to him, the Government/Department has filed this Writ Appeal.

2. Respondent was appointed as a Cook in the appellant Department in the year 1995. He was paid wages at the rate of Rs.10/- per day. He made several representations for absorption as regular Cook and to grant him the scale of pay. His service was given artificial break on completion of 89 days, but he was not granted the benefit of regularisation. According to him, as per G.O.Ms.No.22, P&AR Department, dated 28.02.2006, he is entitled to regularisation of service on completion of ten years.

3. The facts are not in dispute, as the respondent herein is entitled to regularisation of service on completion of ten years. The appellant/Department proceeded on the basis that the respondent is not entitled to regularisation from the date of initial appointment, as it is contrary to the abovestated Government Order.

4. The contention of the respondent employee is that he is not seeking regularisation from the date of initial appointment, but on completion of ten years of service from the date of initial appointment in terms of the above G.O. and that the monetary benefits may be extended to him with effect from the year 2013, the period from which the similarly placed persons like the petitioner have got the benefits, by an earlier order of this Court, dated 01.10.2012, passed in W.P.26721 of 2009. Though the appellants referred to a Division Bench decision of this Court, dated 10.07.2014, passed in a batch of cases vide W.A.No.2911 of 2012 to say that the issue in question is covered in the said decision and that the respondent is not entitled for regularisation, we say, in our considered opinion, in the said case, the employees were part-time employees, but, in the case on hand, the respondent is a full-time Cook, getting consolidated wages. Therefore, we distinguish the said decision and it is not applicable to the present case. Accordingly, we hold that the respondent employee is entitled to regularisation on completion of ten years of service from the date of initial appointment and to the monetary benefits from the year 2013. However, it is made clear that for the notional benefits, the past service of the respondent, prior to the year 2013, shall be taken into account, if there are no legal impediments.

5. Writ Appeal is disposed of accordingly. No costs.
Consequently, the connected C.M.P.No.15081 of 2016 is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Fort St.George,
Chennai-600 009.

2.The Commissioner of Adi Dravidar Welfare,
Chepauk,
Chennai-600 005.

3.The District Adi Dravidar Welfare Officer,
Perambalur.

+1 cc to Mr.P.Arumuga rajan Advocate sr 55803

+1 cc to Government Pleader sr 55632

W.A.No.1174 OF 2016

ak(co)
aa03/11/2016

सत्यमेव जयते

WEB COPY