

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.9777 of 2016

R.Shyamala
District Differently Abled Welfare Officer (Retd.)
Cuddalore District,
Cuddalore. residing at
No.8/1, Bharathi Nagar,
Saraboji College Post,
Tanjore - 613 005. Petitioner

-vs-

- 1.The Secretary to Government of Tamil Nadu,
Department for the Welfare of the Differently
Abled Persons,
Secretariat, Chennai - 600 009.
- 2.The State Commissioner for the Differently Abled,
Jawaharlal Nehru Inner Ring Road,
K.K.Nagar, Chennai - 600 078.
- 3.Director of Social Welfare,
Guindy, Chennai - 600 032. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus, directing the respondents 1 and 2 to re-fix her pay in the post of District Rehabilitation Officer with effect from 06.05.1996 as held by this Court in W.P.(MD) No.8032 of 2011 dated 19.03.2012 under identical circumstances and consequently, direct the respondents 1 and 2 to sanction her revised pension and other retirement benefits with interest.

For Petitioner : Mr.V.S.Jegadeesan
For Respondents: Mr.S.Gunasekaran,
Additional Government Pleader

O R D E R

Mrs.R.Shyamala, the petitioner herein, was appointed as Junior Rehabilitation Officer at the Regional Rehabilitation Centre at Chennai by the third respondent, Director of Social Welfare, Guindy, Chennai, on 23.02.1988. Thereafter, the petitioner was promoted as District Rehabilitation Officer, Madurai District and retired from service on 30.06.2014. The petitioner has given representations to the second respondent to re-fix her pay for the post of District Rehabilitation Officer with effect from 06.05.1996. Since her representations have not been considered, the petitioner has filed the present writ petition.

2. Mr.S.Gunasekaran, the learned Additional Government Pleader, takes notice for the respondents.

3. The learned counsel for the petitioner submitted that the petitioner was appointed as Junior Rehabilitation Officer by order dated 23.02.1988 by the third respondent. Her service was regularized by the third respondent under order dated 06.11.1991. Thereafter, her probation has also been declared under order of the third respondent dated 05.05.1992. She and 18 others were temporarily promoted as District Rehabilitation Officer by the order of the third respondent dated 08.03.1995 with effect from 06.05.1996 pending framing of Adhoc Rules for the District Rehabilitation Officers. However, their services have not been regularized. Aggrieved thereby, one K.Chellamuthu, who was appointed with the petitioner and whose name find place in Sl.No.7 of the Annexure enclosed along with the proceedings dated 06.05.1996 has filed W.P.(MD) No.8032 of 2011 before the Madurai Bench of this Court. This Court has disposed of the writ petition under order dated 19.03.2012 and held as follows:

"4. The Government of Tamil Nadu framed Adhoc Rules in the year 2010 by issuing G.O.Ms.56 Welfare of Differently Abled Persons (D.A.P.1(1) Department dated 27.07.2010, wherein it is clearly stated that the rules thereby made shall be deemed to have come into force on 6th May 1996. The petitioner submitted a representation after the issuance of the said G.O., which was rejected by the second respondent by order dated 30.06.2011, stating that the petitioner's service cannot be regularized prior to the date of issuance of the said G.O., forgetting the fact that the G.O. has given retrospective effect.

5. Heard the petitioner and the learned Government Advocate.

6. The second respondent in the impugned order nowhere stated about the G.O. giving retrospective effect regarding regularization prior to the framing of rules. Hence, the impugned order of the 2nd respondent in his proceedings Na.Ka.No.1239/eph;1/2011 dated 30.6.2011 is set aside on the ground of non application of mind. The second respondent is directed to apply his mind taking note of the Government Order giving retrospective effect and pass fresh order within 6 weeks from the date of receipt of a copy of this order.

7. This Writ Petition is allowed with the above direction. No costs."

4. The learned counsel for the petitioner further submitted that pursuant to the direction issued by this Court, the second respondent has passed orders implementing the order of this Court in favour of K.Chellamuthu. Therefore, it is the submission of the learned counsel that the petitioner, who is also similarly placed like K.Chellamuthu should be given such benefit. In this regard, the petitioner has also given representations, which have not been considered by the respondents.

5. Considering the fact that the respondents have implemented the order of this Court in favour of one K.Chellamuthu, who is similarly placed as the petitioner, this Court has no hesitation to direct the respondents to consider the representations of the petitioner dated 31.07.2015. Accordingly, this Court directs the respondents to consider the representations of the petitioner in the light of the order passed by this Court in W.P.(MD) No.8032 of 2011 dated 19.03.2012 and the proceedings of the Principal Secretary/State Commissioner for Differently Abled, Chennai, dated 16.06.2012 and pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. The petitioner is also directed to give a fresh representation along with order dated 19.03.2012 passed in W.P. (MD) No.8032/2011 within a week from the receipt of this order.

This Writ Petition is disposed of with the above direction. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

- 1.The Secretary to Government of Tamil Nadu,
Department for the Welfare of the Differently
Abled Persons,
Secretariat, Chennai - 600 009.
- 2.The State Commissioner for the Differently Abled,
Jawaharlal Nehru Inner Ring Road,
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- 3.Director of Social Welfare,
Guindy, Chennai - 600 032.

+1 cc to M/s.R.Rengaramanujam Advocate sr.16831/16
+1 cc to Government Pleader sr.17007/16

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