IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.05.2017

Coram

The Hon'ble Mr.Justice S.M.Subramaniam

Writ Petition No.10031 of 2013

P.Chinnathambi ...Petitioner

Vs.

1. The Government of Tamil Nadu
Rep. by its Secretary,
Revenue Department,
Fort St. George, Chennai-9.

2. The Special Commissioner and
Commissioner of Revenue Administration,
Chepuak, Chennai-5.

3. The District Collector,
Salem, Salem District.

4. The Tahsildar,
Yearcadu,
Yearcadu Taluk,
Salem District. ...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records of the first respondent in G.O.Ms.No.388 Revenue (Personnel) 8(2) Department Dated 20.07.2007 and quash the same in so far as regularizing the Petitioner's service as Masalchi w.e.f.1.1.2006 instead of from the date of initial appointment i.e. from 13.01.1982 and consequently direct the Respondents to regularize the service of the petitioner as Masalchi w.e.f.13.01.1982 with all monetary and other attendant benefits.

For Petitioner : Mr.N.Kolandaivelu

For Respondents : Mr.K.Dhananjeyan
Special Government Pleader

O R D E R

The facts in Nutshell as narrated by the petitioner in the affidavit filed in support of the writ petition states that the

Writ Petitioner was appointed as Masalchi on 13.01.1982 and the initial appointment was made through District Employment Exchange by the Revenue Divisional Officer, Salem. The Sub Collector, Salem in his proceedings dated 17.01.1989 regularised the service of the Writ Petitioner as Masalcchi with effect from 13.01.1987 from the date of which the post of Masalchi was sanctioned. A proposal was sent to the Government seeking regularisation of the services of the Writ Petitioner since at the time of appointment, there was no irregularity in the appointment.

2. The learned counsel for the petitioner contended that the Writ Petitioner was fully qualified to hold the post of Masalchi initially and there was no irregularity in the appointment. He was appointed in the sanctioned post and he is continuing as full time employee. A proposal was submitted to the Government seeking regularisation of services from the date of initial appointment. The Government after deliberations considered the case of the Writ Petitioner and issued a Government Order in G.O.Ms.No.388 Revenue (Personnel) 8 (2) Department, dated 20.07.2007. The Government though regularized the services of the Writ Petitioner, the benefit of regularization is granted with effect from 01.01.2006. Aggrieved by the date of regularisation, the Writ Petitioner moved this Writ Petition for a prayer to extend the regularization from the date of his initial appointment.

3. The learned Special Government Pleader appearing for the respondents contended that though there was no irregularity in the initial appointment of the writ petitioner, there was a delay in submitting the proposal seeking regularization for which the Government need not be blamed. The Government on receipt of the proposal considering the case of the Writ Petitioner granted regularization on 01.01.2006 and there is no infirmity in the Government Order.

4. Considering the facts and circumstances of the case, this Court is of the view that since there was no irregularity or illegality in the initial appointment of the Writ Petitioner, he is entitled for regularization from the date of his initial appointment. When the Writ Petitioner possessed the required qualifications and age at the time of appointment and further the appointment was through the employment exchange, there was no irregularity in the initial appointment. Hence, the grounds raised by the Writ Petitioner deserves merit consideration.

5. The respondents are unable to furnish any reason for restricting the regularization of the services with effect from 01.01.2006. The date from which the regularization was extended to the petitioner has no relevance and no nexus. Such being the factum of the case, the Writ petition deserves to be considered

and accordingly the Impugned Government Order in G.O.Ms.388 Revenue (Personnel) 8(2) Department dated 20.07.2007 is quashed to the limited extent of date of regularization. The Sub Collector, Salem in his proceedings dated 17.1.1989, regularized the service of the Writ Petitioner on completion of his five years of service and the completion of five years falls on 13.01.1987. Accordingly the service of the petitioner is to be regularized with effect from 13.01.1987.

6. The learned counsel for the petitioner fairly conceded that the Writ Petitioner will not claim any arrears of pay consequent to the retrospective regularization. All Notional benefits consequent to the retrospective regularization shall be extended to the Writ Petitioner and monetary benefits can be granted prospectively.

7. Accordingly, the Writ Petition stands allowed. No order as to costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

arr/ub

To

1. The Secretary, The Government of Tamil Nadu
   Revenue Department,
   Fort St. George, Chennai-9.

2. The Special Commissioner and
   Commissioner of Revenue Administration,
   Chepuak, Chennai-5.

3. The District Collector,
   Salem, Salem District.

4. The Tahsildar, Yearcadu,
Yearcadu Taluk,
Salem District.

+1 cc to M/S N.Kolandaivelu, Advocate sr.36672
+1cc to Government Pleader Sr.36957

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RSK(CO)
rvr 17/05/2017