

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.Nos.30605 of 2012 & 4884 of 2013 and M.P.No.1 of 2012
in
WP.No.30605 of 2012 & 1 of 2013
in WP.No.4884 of 2013

Mrs.A.K.Vijaya Geetha Petitioner in both the
Writ Petitions

Vs

1. The Director,
State Institute of Rural Development
Maramalai Nagar,
Kanchipuram District, Pin-603 209.
2. The Commissioner
Directorate of Rural Development &
Panchayat Raj Department,
Panagal Building, Saidapet, Chennai 600 015.
3. The Chairman/Principal Secretary to Government
Rural Development & Panchayat Raj Department
Secretariat Complex, Chennai 600 009.
4. The Secretary to Government of India
The Ministry of Rural Development
Block No.11, 6th Floor, CGO Complex,
Lodhi Road, New Delhi 110 003. Respondents in
both Writ Petitions

Prayer in WP.No.30605 of 2012 : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the 1st, 2nd and 3rd respondents to pass appropriate orders to regularise the service of the petitioner as Core Faculty in the State Institute of Rural Development [SIRD] retrospectively from the date of her initial appointment and consequently, directing the 1st respondent to provide all attendant service and monetary benefits to the petitioner.

Prayer in WP.No.4884 of 2013 : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to quash the impugned order, terminating the services of the petitioner which was passed by the 1st respondent in Proceedings No.RC.No.1592/2011/A1 dated

For Petitioner in both
Writ Petitions : Mr. K.Shahul Hameed

For R1 in both Writ : Mr.S.Siva Shanmuga Sundaram
Petitions Special Government Pleader

For R2 and R3 in both
Writ Petitions : Mr.K.Dhananjayan,
Special Government Pleader

For R4 in both
Writ Petitions : Mr. N.Rajan, SCGSC

COMMON ORDER

The matter in issue pertains to regularisation of the petitioner's service as Core Faculty in the State Institute for Rural Development [SIRD] and therefore, both the writ petitions are taken up together for hearing and disposed of by this common order.

2. The petitioner, in the affidavit filed in support of these writ petitions, would aver among other things that she obtained her Masters Degree both in Business Administration [Management] and Public Administration and had completed her M.Phil [Management] and she has also submitted her research thesis in Management to the Dravidian University, Andhra Pradesh, for getting Ph.D., degree. The petitioner, arming with the said degrees, applied for the post of Faculty in Management and Public Administration in SIRD which is attached to the Directorate of Rural Development and Panchayat Raj Department, Chennai-15, in terms of the Advertisement dated 07.01.2007. The petitioner would further state that based on her qualification, she was recruited as Core Faculty [Management] in the year 2007 by SIRD through Competitive Selection Process and was appointed on contract basis for a period of two years on 27.09.2007. It is the stand of the petitioner that despite the fact that her appointment was a contractual one, she continued in the service beyond the contractual period for more than 3 years by way of extension during the years 2009, 2010 and 2011 and the last of such extension was given on 10.10.2011 and the pay scales of the petitioner was also revised as per the recommendations made by the VI Pay Commission.

3. The petitioner would submit that in the light of the fact that her contractual employment has been extended periodically without any break in her service in the State Institute of Rural Development [SIRD], she submitted a representation on 26.09.2012 to the 3rd respondent to regularise her services. The petitioner has also pointed out that one Dr.C.Villi, who was similarly placed, has filed

WP.No.25636/2005 seeking regularisation and it was allowed and the official respondents had challenged the said order by filing WA.No.2184/2011 and it was also dismissed and in compliance of the orders, the services of Dr.C.Villi has also been regularised vide proceedings of the 1st respondent herein dated 22.05.2012 in RC.No.1568/2011/A1 and since the representation dated 26.09.2012 submitted by the petitioner to the 3rd respondent has not been considered and disposed of, she had filed WP.No.30605/2012 and since the services of the petitioner as a contractual employee, came to be terminated vide proceedings of the 1st respondent dated 31.12.2012, challenging the legality of the same, she has filed WP.No.4884/2013.

4. The learned counsel for the petitioner has drawn the attention of this Court to the order dated 11.02.2011 made in WP.No.25636/2005 filed by Dr.C.Villi and would submit that the said writ petitioner therein was also appointed in the services of the 1st respondent as Core Faculty [Training Skill and Methodology] in the year 1997 on contractual basis and he prayed for regularisation to the 3rd respondent and a positive recommendation was made to regularise his services and despite that, the said request has not been considered and therefore, he filed WP.No.25636/2005 and it was allowed on 11.02.2011 after contest. It is the further submission of the learned counsel for the petitioner that aggrieved by the allowing of the writ petition, the respondents 1 to 3 therein, who are also arrayed as the respondents in the present writ petitions, had filed WA.No.2184/2011 and vide judgment dated 25.04.2012, a Division Bench of this Court has dismissed the writ appeal and a further challenge was made in the form of Special Leave Petition before the Hon'ble Supreme Court of India, and it has also ended in dismissal and thereafter, the services of Dr.C.Villi, has been regularised by the 1st respondent, vide proceedings dated 22.05.2012 [cited supra] and since the petitioner is similarly placed like that of Dr.C.Villi, she is also entitled to equal treatment under Article 14 of the Constitution of India and therefore, prays for setting aside the order of termination and for regularisation of her service from the date of her initial appointment and conferment of consequential and other attendant benefits and prays for appropriate orders.

5. Per contra, Mr.K.Dhananjayan, learned Special Government Pleader appearing for the respondents 1 to 3, has invited the attention of this Court to the counter affidavit of the 1st respondent and would submit that admittedly, the nature of employment of the petitioner was a contractual one and as such, she is entitled to claim regularisation as a matter of right and would further add that in the light of the ratio laid down by the Apex Court in very many decisions, a contractual employee cannot seek for regularisation as a matter of right and taking into consideration of the said fact, the claim made by the petitioner for regularisation is

per se not maintainable and prays for dismissal of these writ petitions.

6. This Court paid its best attention to the rival submissions and also perused the materials placed before it.

7. In the considered opinion of the Court, the claim made by the petitioner is similar to that of Dr.C.Villi, the writ petitioner in WP.No.25636/2005, wherein the respondents 1 to 3 herein were also parties and this Court, vide final order dated 11.02.2011 in the said writ petition, made a positive direction, directing the respondents to regularise the services of Dr.C.Villi, retrospectively from the date of his initial appointment with consequential benefits and has also noted that a recommendation has already been made by the respondents 1 to 3 therein to the authority concerned for regularisation and in the light of the said stand, the petitioner's service is to be regularised as that of Dr.C.Villi.

8. The respondents 1 to 3 herein had made a challenge to the said order by filing WA.No.2184/2011 and vide judgment dated 25.04.2012, the said writ appeal was dismissed and it is relevant to extract paragraphs No.10 and 11 of the said judgment:-

".....

10.Learned Single Judge, after considering the facts and circumstances of the case, held that when the first respondent was appointed in the year 1997 with appropriate qualification and he has been continuously working in the State Institute of Rural Development for more than thirteen years without any break, his services are to be regularized and accordingly, directed the appellants to regularise the services of the 1st respondent as Core Faculty in the State Institute of Rural Development retrospectively from the date of his initial appointment and provide him with UGC scale of pay in accordance with Rules and Regulations. We see no reason to interfere with the findings rendered by the learned Single Judge.

11.Moreover, in the counter filed by the appellants, it is stated that they are implementing the directions issued by the Central Government since it is the Central Government Project and funds are allotted by the Government of India, Ministry of Rural Development. But the Central Government has not filed any writ appeal against the order passed by the Learned Single Judge. The writ appeal fails and the same is dismissed. Four

weeks time is granted to the appellants to implement the order dated 11.02.2011 passed by the learned Single Judge of this Court in WP.No.25636/2005. Consequently, the connected M.P. Is closed. However, there shall be no order as to costs."

9. It is also brought to the notice of this Court, that further challenge was also made to the said judgment by the official respondents by filing a Special Leave Petition and it was also dismissed by the Hon'ble Supreme Court of India vide orders dated 08.08.2014 in SLP[C] NO.10937/2013 and the orders passed by this Court had also been complied with by the 1st respondent vide proceedings dated 22.05.2012. Mr.K.Dhananjayan, learned Special Government Pleader appearing for the official respondents would submit that the entire funding of SIRD - 1st respondent herein, are being provided by the 4th respondent and therefore, they have to forward necessary proposal to the 4th respondent seeking regularisation of the petitioner's service and it may take some time.

10. Mr.N.Rajan, learned Senior Central Government Panel Counsel would submit that as and when proposal emanates from the respondents 1 to 3, it will be considered in accordance with law.

11. In the result, the writ petitions are disposed of and the respondents 1 to 3 are directed to forward necessary proposal for regularisation of the services of the petitioner to the 4th respondent in terms of the order dated 11.02.2011 made in WP.No.25636/2005 and the judgment dated 25.04.2012 made in WA.No.2184/2011 [cited supra] to the 4th respondent within a period of eight weeks from the date of receipt of a copy of this order and upon receipt of the same, the 4th respondent shall take note of the said orders and judgment and pass appropriate orders on the recommendation / proposal to be submitted by the respondents 1 to 3 on merits and in accordance with law and pass orders within a further period of ten weeks thereafter and communicate the decision taken, to the petitioner as well as to the respondents 1 to 3. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

AP

To

1. The Director,
State Institute of Rural Development
Maramalai Nagar,
Kanchipuram District, Pin-603 209.
2. The Commissioner
Directorate of Rural Development &
Panchayat Raj Department,
PanagalBuilding, Saidapet, Chennai 600 015.
3. The Chairman/Principal Secretary to Government
Rural Development & Panchayat Raj Department
Secretariat Complex, Chennai 600 009.
4. The Secretary to Government of India
The Ministry of Rural Development
Block No.11, 6th Floor, CGO Complex,
Lodhi Road, New Delhi 110 003.

+2cc's to Mr.N.Rajan, SCGSC, S.R.No.39693

+1cc to Mr.K.Shahul Hameed, Advocate, S.R.No.40170

+1cc to the Government Pleader, S.R.No.39793

W.P.Nos.30605 of 2012 & 4884 of 2013

SJ(CO)
CA(07/07/2017)

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