

In the High Court of Judicature at Madras

Dated : 19.4.2017

Coram :

The Honourable Mr.Justice NOOTY.RAMAMOHANA RAO

and

The Honourable Mr.Justice S.M.SUBRAMANIAM

W.P.Nos.42870 to 42875 of 2016 & WMP.Nos.36760 to 36771 of 2016

Tmt.B.Saraswathi ...Petitioner in  
WP.42870/2016

Tmt.S.Ayyammal ...Petitioner in  
WP.42871/2016

Tmt.K.Indumathi ...Petitioner in  
WP.42872/2016

Tmt.M.Johnsirani ...Petitioner in  
WP.42873/2016

Tmt.S.Kayalvizhi ...Petitioner in  
WP.42874/2016

Tmt.C.Geetha ...Petitioner in  
WP.42875/2016

Vs

1.Government of Tamilnadu, rep.by  
Secretary to Government, Home  
(Courts) Department, Secretariat,  
Chennai-9.

2.The Secretary to Government,  
Personnel and Administrative  
Reforms Department, Secretariat,  
Chennai-9.

3.The Registrar General, High Court,  
Chennai-104.

4.The Principal District Judge,  
Villupuram District, Villupuram.

...Respondents in  
all the WPs

PETITIONS under Article 226 of The Constitution of India praying for issuance of Writs of Mandamus directing respondents 1 to 3 to consider to absorb the petitioners in the post of Reader/Examiner/Copyist in any existing vacancies or next arising vacancy or any other suitable post in the Tamilnadu Judicial Sub-ordinate Service by framing a Scheme on the lines approved by the Honourable Court in its Judgement in W.P.Nos.9710 and 10189 of 2009 dated 10.6.2009 and till then not to disturb the temporary appointment of the petitioners (i) as temporary Typists (WP.Nos.42870 to 42874 of 2016) and (ii) as temporary Junior Assistant (WP.No.42875 of 2016).

For Petitioners : Mr.N.G.R.Prasad  
for Mr.J.Muthukumaran  
For Respondents 1 & 2 : Mr.P.S.Shivashanmuga Sundaram, SGP  
For Respondents 3 & 4 : Mr.V.Vijaya Shankar

COMMON ORDER

(Order of the Court was made by NOOTY.RAMAMOohana RAO,J)

These writ petitions are filed seeking a direction to respondents 1 to 3 to consider to absorb the petitioners in the post of Reader/Examiner/Copyist in any existing vacancies or next arising vacancies or any other suitable post in Tamil Nadu Judicial Subordinate Service by framing proper scheme on the lines approved by this Court in its order dated 10.6.2009 in W.P.Nos.9710 and 10189 of 2009 and till then, not to disturb the temporary appointment of the writ petitioners.

2. The Principal District Judge, Villupuram has filed a detailed common counter affidavit in the matter.

3. Heard Sri.N.G.R.Prasad, learned counsel appearing on behalf of the petitioners, Sri.P.S.Shivashanmuga Sundaram, learned Special Government Pleader appearing for respondents 1 and 2 and Sri.V.Vijaya Shankar, learned counsel appearing for respondents 3 and 4.

4. The present case is not an isolated one. There were several other unfortunate temporarily recruited employees working in the Tamil Nadu Judicial Ministerial Service for a long period of time. Initially, no doubt, certain directions have been issued by this Court in several cases for the purpose of allowing such temporary employees to continue in service and seek to absorb them against the post of Copyist/Reader/Typist, as the case may be, as and when any vacancy arises by giving a day's break in the temporary service and to treat the subsequent appointment as a regular one with effect from such date of fresh appointment. But, however, noticing the principles enunciated by

the Supreme Court in the case of State of Karnataka Vs. Uma Devi (3) [reported in 2006 (4) SCC 1] and other line of cases, another Division Bench of this Court exercised discretion by granting limited relief.

5. Having considered both the types of judgments rendered by two different Division Benches earlier, we have preferred to follow the latter judgment of the Division Bench in several cases including the one in W.P.Nos. 2206 to 2218 of 2017 dated 01.2.2017. We have concluded the issue in paragraphs 4 and 5 in the following manner :

"4. It is true that having rendered a little more than two years of service and that too satisfactorily and then getting out of employment such as the Judicial Ministerial Services would cause any amount of heartburn and hardship. But that was reason for us to bend the legal principles backwards and order for consideration of the cases of the writ petitioners exclusively for purposes of filling up of existing vacancies such as Examiner, Reader, Senior Bailiff, Junior Bailiff, Record Keeper, Shroff, Assistant Shroff, Record Clerk and Xerox Operator, lying vacant as of now in various District Courts and Small Causes Court, Madras. In the given facts and circumstances, we consider that equities can be stretched a little in favour of the writ petitioners by issuing the following directions:

(i) As and when any regular recruitment or temporary appointments are undertaken by the State Government and or in particular by the Principal District Judges/Court of Small Causes/ High Court, as the case may be, the cases of the writ petitioners may be considered duly relaxing the upper age limit to some extent, rounding it off to the nearest whole number, such as 3 or 4, as the case may be, corresponding to the length of service put in by the respective petitioners.

(ii) The respective District Employment Officers would also grant similar consideration for the purpose of sponsoring the names of the writ petitioners concerned to any other appointing authority.

(iii) The District Employment Exchange concerned will restore the original seniority of the respective writ

petitioners, if at all their names have been struck off/rounded off from their rolls.

5. We only hope that the writ petitioners will not lose hope and would trust that their hard work would pay the necessary dividend at some time or the other."

6. In all fairness, the learned counsel for the writ petitioners has preferred the present writ petitions also to be disposed of on similar lines.

7. Hence, these writ petitions stand disposed of in terms as quoted above by us. No costs. Consequently, the above WMPs are closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

RS

To

1.The Secretary to Government of Tamilnadu, Home (Courts)  
Department,  
Secretariat, Chennai-9.

2.The Secretary to Government, Personnel and Administrative  
Reforms  
Department, Secretariat, Chennai-9.

3.The Registrar General, High Court, Chennai-104.

4.The Principal District Judge, Villupuram District, Villupuram.

+1cc to Mr.Vijay shankar, Advocate, S.R.No.23943

+6cc to Mr.Muthukumaran, Advocate, S.R.No.23459

WP.Nos.42870 to 42875 of 2016&  
WMP.Nos.36760 to 36771 of 2016

LV(CO)  
RS(26/04/2017)