



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:24.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.A.[MD].No.1072 of 2013

- 1.The State of Tamil Nadu,
Rep by its Principal Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat, Chennai 600 009.
- 2.The State of Tamil Nadu,
Rep by its Commissioner and Secretary,
Municipal Administration and Water Supply Department,
Secretariat, Chennai 600 009.
- 3.The District Collector,
Kanniyakumari District,
Nagercoil.
- 4.The Commissioner,
Melpuram Panchayat Union,
Melpuram, Pacode Post 629 168,
Kanniyakumari District.

: Appellants

Vs.

S.Padmaja : Respondent

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 18.01.2013 made in W.P.(MD).No.4806 of 2011, on the file of this Court.

Prayer in WP(MD). 4806/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARI MANDAMUS, to call for the records in connection with the impugned order of rejection passed by the 1st Respondent in Letter No.230781/Pa.Aa.7/2010-5 dated 08-02-2011 and quash the same as illegal and arbitrary and consequently direct the Respondents to regularise the Petitioner s service in the post of Typist in view of G.O.Ms.No.22, P & A.R. Department dated 28-02-2006 as well as in view of the order passed in W.A.(MD) No.380/06 of 2011. The Petitioner prays for service and monetary benefits within the time limit that may be stipulated by this Honourable Court.



For Appellants
For Respondent

: Mr.S.Chandrasekar
: Mr.G.Thalaimutharasu

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JUDGMENT

[Judgment of the Court was made by R.SUBBIAH, J.]

This Writ Appeal has been filed as against the order dated 18.01.2013 made in W.P.(MD).No.4806 of 2011.

2. The case of the respondent before the learned Single Judge is that she worked as Typist in the fourth appellant union from February 1993 to 1994 and thereafter, there arose a vacancy in the post of Typist, on account of the retirement of one Mrs.Baby, in the year 1994. The fourth appellant passed a resolution No.70, dated 01.09.1994, for the purpose of appointing a Typist on temporary basis and in the said vacancy, the respondent was appointed as a Typist on daily wage basis for a sum of Rs.30/- per day. The respondent worked as Typist up to the year 2010. Subsequently, the respondent was compelled to go out of service and therefore, she had submitted a representation dated 07.10.2009 seeking to regularize her service. As there was no response forthcoming, the respondent filed W.P.(MD).No.13458 of 2009. The said Writ Petition was disposed of on 17.12.2009, directing the fourth appellant herein to consider her case and pass appropriate orders. However, by proceedings dated 20.01.2010, the fourth appellant had rejected the claim of the respondent. Challenging the said order, the respondent filed W.P.(MD).No.3645 of 2010, which was disposed of, directing the appellants to consider the claim of the respondent, in the light of the Judgment rendered by a Division Bench of this Court in W.A.(MD).No.380 of 2016, dated 14.11.2016. However, once again, the claim of the respondent was rejected by the first appellant, by order dated 08.02.2011.

3. Aggrieved over the said order, the respondent filed W.P.(MD).No.4806 of 2011. The learned Single Judge of this Court, by order dated 18.01.2013, while setting aside the impugned order of rejection, directed the appellants herein to regularize the service of the respondent, in the light of the Government Order issued in G.O.Ms.No.22, Personnel and Administrative Reforms (F) Department, dated 28.02.2006 and in the light of the Judgment passed by the Division Bench of this Court in W.A.(MD).No.380 of 2016, dated 14.11.2016, within a period of twelve weeks from the date of receipt of a copy of this Judgment. Questioning the validity of the above order, the appellants have come up with this Writ Appeal.

<https://hcservices.ecourts.gov.in/hcservices/>

4. Today, when the Writ Appeal is taken up for consideration, it is submitted by the learned Government Advocate for the

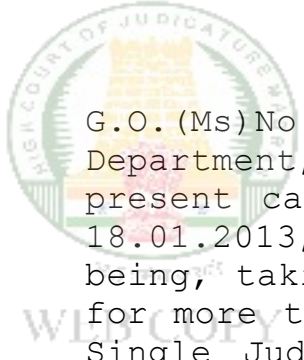


appellants that the fourth appellant has no power or authority to appoint the respondent as Typist. Moreover, the respondent had not worked as Typist continuously and she was not a regular employee. The learned Government Advocate further submitted that the name of the respondent was not sponsored through the Employment Exchange. The Government Order issued in G.O.Ms.No.22, Personnel and Administrative Reforms (F) Department, dated 28.02.2006, is not applicable to the facts of the present case, since, subsequently, yet another Government Order in G.O.(Ms)No.74, Personnel and Administrative Reforms (F) Department, dated 27.06.2013, was issued. As per the said Government Order, the services of the full time daily wage employees, who were initially appointed on full time basis in consultation with the Employment Exchange to discharge the function of the post in the Tamil Nadu Basic Service and completed 10 (ten) years of service as on 01.01.2006, shall be regularized and therefore, according to the learned Government Advocate, the order passed by the learned Single Judge needs interference.

5. Per contra, the learned counsel appearing for the respondent submitted that the respondent was appointed as Typist on NMR basis in Melapuram Panchayat Union and she worked for 19 years. By virtue of the Government Order issued in G.O.Ms.No.22, Personnel and Administrative Reforms (F) Department, dated 28.02.2006, the service of the respondent is entitled to be regularized and the learned Single Judge, relying upon the Government Order, referred to above and also by placing reliance upon the Judgment rendered by the Division Bench of this Court in W.A.(MD).No.380 of 2016, dated 14.11.2016, has rightly set aside the order of rejection passed by the first appellant and directed the appellants herein to regularize the service of the respondent. Moreover, the Government Order in G.O.(Ms)No.74, Personnel and Administrative Reforms (F) Department, dated 27.06.2013, relied upon by the learned Government Advocate was issued only on 27.06.2013, whereas the order was passed by the learned Single Judge on 18.01.2013. Thus, the Government Order in G.O.(Ms)No.74, Personnel and Administrative Reforms (F) Department, dated 27.06.2013 is not applicable to the case of the respondent and thus, the order passed by the learned Single Judge does not require any interference at the hands of this Court.

6. We have considered the above submissions and keeping in mind the said submissions made on either side, we have carefully gone through the materials available on record.

7. It is not in dispute that the fourth appellant passed a resolution No.70, dated 01.09.1994, for the purpose of appointing a Typist on temporary basis and in the said vacancy, the respondent was appointed as a Typist on daily wage basis and she had worked for more than 19 years. As rightly contended by the learned counsel for the respondent the Government Order issued in



G.O.(Ms)No.74, Personnel and Administrative Reforms (F) Department, dated 27.06.2013 is not applicable to the facts of the present case, since the learned Single Judge passed the order on 18.01.2013, viz., before the said Government Order came into being, taking into account the fact that the respondent had worked for more than 19 years. Thus, in our considered view, the learned Single Judge, taking into consideration of all the aspects, has rightly set aside the order of rejection passed by the first appellant and directed the appellants herein to regularize the service of the respondent. Therefore, we do not find any infirmity in the order passed by the learned Single Judge.

8. In the result, the Writ Appeal is dismissed and the order dated 18.01.2013 made in W.P.(MD).No.4806 of 2011 is confirmed. The appellants are directed to implement the order passed by the learned Single Judge, within a period of twelve weeks from the date of receipt of a copy of this Judgment. No costs.

Sd/-

Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

To

- 1.The Principal Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat, Chennai 600 009.
- 2.The State of Tamil Nadu,
Rep by its Commissioner and Secretary,
Municipal Administration and Water Supply Department,
Secretariat, Chennai 600 009.
- 3.The District Collector,
Kanniyakumari District,
Nagercoil.
- 4.The Commissioner,
Melpuram Panchayat Union,
Melpuram, Pacode Post 629 168,
Kanniyakumari District.

+1cc to special Government Pleader SR.No.10948

+1cc to MR.G.Thalaimutharasu, Advocate, SR.no.10890

NB

sm:MR:09/03/2017:4P/7C