



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **09.02.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBBIAH**

AND

THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

W.P. [MD] .No.931 of 2013

and

M.P. (MD)No.2 of 2013

- 1.S.Mangai Manavalan
- 2.S.Pappa @ Meena
- 3.M.Ranjitham
- 4.S.Kalimuthu
- 5.S.Meenakshi
- 6.E.Indhurani
- 7.S.Peer Mohammed
- 8.M.Jeenath Beevi
- 9.M.Rengammal
- 10.S.Koilpushpam
- 11.V.Chandral
- 12.C.Krishnan
- 13.R.Thirumagal
- 14.N.Santhanamari
- 15.S.Ponselvi
- 16.V.Vijayakumari
- 17.Jeyarani Packiam

: Petitioners

Vs.

- 1.State of Tamil Nadu, represented by
its Secretary to Government,
Home (Courts II) Department,
Fort St. George,
Chennai-600 009.
- 2.The Registrar General,
Madras High Court,
Chennai-104.
- 3.The Principal District Judge,
District Court, Kanyakumari District,
at Nagercoil.
- 4.The Principal District Judge,
District Court, Tirunelveli.
- 5.The Principal District Judge,
District Court, Tuticorin.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to count the temporary services rendered by the petitioners in Tamil Nadu Judicial Ministerial Service for seniority, monetary and all attendant service benefits.

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

For Petitioners : Mr.M.Saravanakumar

For Respondent No.1 : Mr.S.Chandrasekar,
Government Advocate

For Respondents 2to5 : Mr.D.Venkatesh

**O R D E R***********

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

The present Writ Petition has been filed seeking for the issuance of a Writ of Mandamus, directing the respondents to count the temporary services rendered by the petitioners in Tamil Nadu Judicial Ministerial Service for seniority, monetary and all attendant service benefits.

2. The case of the petitioners is that due to acute shortage of Typist in the Judicial Ministerial Service from the year 1995, the District Judges were permitted to fill up the vacancies from the list obtained from the District Employment Exchange for efficient performance of the judicial work and about 168 typists were appointed in the year 1996 and 1997. The petitioners were appointed as Typist in the year 1997. Thereafter, the Tamil Nadu Public Service Commission selected Typists through competitive exam and prepared to accommodate them in the place of the petitioners. Hence, they filed Writ Petitions before this Court in W.P.Nos.894 to 898 of 2000, 1810 and 5176 of 2000 for regularization and as per the order of this Court dated 28.09.2000, the second respondent, by order dated 22.02.2001, permanently absorbed the petitioners as Typists in the Tamil Nadu Ministerial Service.

3. It is the further case of the petitioners that the petitioners were initially appointed as Typist in the sanctioned post and time scale of pay was granted at the rate of Rs.3200-4200 and necessary deductions, like GPF, FBF, etc., have been made from their salary. The petitioners have also been paid annual increments, surrender leave salary and adhoc bonus which are normally sanctioned by the Government of Tamil Nadu to other regularly appointed employees of the Government. Pursuant to the order of this Court made in W.P.Nos.894 to 898 of 2000, 1810 and 5176 of 2000, the service of the petitioners were regularized by the competent authority. However, the temporary service rendered by the petitioners has been taken into account only for the purpose of pensionary benefits and the same has not been taken into consideration for pay protection, increment, seniority and promotion by the respondents. It is the further case of the petitioners that they are working in the department for more than 16 years, but the juniors recruited directly through Tamil Nadu Public Service Commission have been promoted to the higher post. Hence, they have come forward with the present Writ Petition seeking for the reliefs as stated above.

4. The third respondent has filed a counter-affidavit stating that there is no direction in the order of appointment to reckon the temporary service for pay protection, increment, seniority and promotion. The candidates appointed by Tamil Nadu Public Service Commission are direct recruitees and from the date of their appointment, their probation commence, whereas, the case of candidates appointed by selection through the District Employment Exchange is not similar to the candidates selected



through Tamil Nadu Public Service Commission. The seniority of temporary typist recruited through Employment Exchange is fixed from the date of regularization of their services. Therefore, the petitioners are not entitled for the reliefs as sought for in the Writ Petition.

5. Today, when the matter was taken up for consideration, the learned counsel for the respondents 2 to 5, by drawing the attention of this Court to the appointment order dated 18.01.1997, submitted that at the time of making appointment itself, the second respondent, by proceedings dated 22.02.2001, made it very clear that the appointment is subject to the condition that any temporary service rendered by the candidates in any post including the post of Typist will not be considered for the purpose of service benefits, viz., pay protection, increment, seniority and promotion except for pensionary benefits. Unless that order is challenged, the petitioners are not entitled for the relief of Mandamus.

6. We find some force in the submission made by the learned counsel for the respondents 2 to 5.

7. In our considered opinion, when the appointment order itself was issued with certain conditions and the petitioners have also accepted the same, now they cannot seek for a direction by way of Mandamus. Furthermore, when the petitioners have not chosen to challenge the proceedings of the second respondent dated 22.02.2001, they are not entitled to the relief as sought for by the petitioners. Therefore, the Writ Petition is dismissed. However, the petitioners are at liberty to challenge the proceedings of the second respondent dated 22.02.2001 in accordance with law, if so advised. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(Writs)

/TRUE COPY/

Sub Assistant Registrar

To

1.The Secretary to Government,
State of Tamil Nadu,
Home (Courts II) Department,
Fort St. George,
Chennai-600 009.

2.The Registrar General,
Madras High Court,
Chennai-104.

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

3.The Principal District Judge,
District Court, Kanyakumari District,
Nagercoil.



4.The Principal District Judge,
District Court, Tirunelveli.

5.The Principal District Judge,
District Court, Tuticorin.

+1cc to M/S.THE SPECIAL GOVERNMENT PLEADER, SR NO:7509

+1 cc to MR.M.Saravanakumar ADVOCATE, SR NO:7282

**Order made in
W.P. [MD] .No.931 of 2013
Dated: 09.02.2017**

SVA/JM/28.02.2017/4P/8C