

In the High Court of Judicature at Madras

Dated: 18.04.2018

Coram:

The Hon'ble Mr.Justice M.VENUGOPAL
and
The Hon'ble Mrs.Justice R.HEMALATHA

W.P.No.5002 of 2018

1.A.Rathinam

2.C.Kalaiselvi

3.V.Nallasivam

4.D.Thangamani .. Petitioners

Vs.

1.The Secretary to Government,
Home (Courts-V) Department,
Government of Tamil Nadu,
Fort Saint George, Secretariat,
Chennai-600 009.

2.The Registrar General,
High Court, Madras.

3.The Principal District Judge,
Erode District,
Erode.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for a writ of Mandamus, directing the First Respondent to regularise the services of the Petitioners as Typist from the date of joining with the Third Respondent with all attendant benefits.

For Petitioners: Mr.K.Dhananjayan

For Respondent : Mr.A.Rajendra Prasad
No.1 Additional Government Pleader

For Respondent : Mr.M.Santhanaraman
Nos.2 & 3

O R D E R

[Order of the Court was made by
M.VENUGOPAL, J.]

Heard the Learned counsel for the Petitioners, Learned Additional Government Pleader for the First Respondent and the Learned counsel for the Respondents 2 and 3.

2.No counter is filed on behalf of the Respondents 1 to 3.

3.By consent, the main writ petition itself is taken up for final disposal.

4.According to the Petitioners, they have the requisite following educational qualifications which run as under:

Serial No.	Name	Educational Qualification	Technical Qualification
First Petitioner	A.Rathinam	XII Std., passed	a)Typewriting (English and Tamil higher grade) b)Office Automation course c)Shorthand (English Lower Grade)
Second Petitioner	C.Kalaiselvi	S.S.L.C.	a)Typewriting (English and Tamil higher grade) b)Office Automation
Third Petitioner	V.Nallasivam	S.S.L.C.	a)Typewriting (English and Tamil higher grade) b)Office Automation

Serial No.	Name	Educational Qualification	Technical Qualification
Fourth Petitioner	D.Thangamani	M.Com	a)Typewriting (English and Tamil higher grade) b)Office Automation

5.The Learned counsel for the Petitioners submits that after requiring educational qualifications, the Petitioners had registered their qualifications with the District Employment Officer, Erode. It is the stand of the Petitioners that the Third Respondent/Principal District Judge, Erode had initiated recruitment process to fill up the Copyist posts in the vacancies available within his jurisdiction. As a matter of fact, the Third Respondent/Principal District Judge, Erode through letter dated 19.07.2006 had called for the Petitioners to participate in the Copyist selection. Based on the intimation, the Petitioners had participated in the interview process that took place on 12.08.2006 at Court Hall No.6 of the Combined Court Buildings, Erode.

6.The Learned counsel for the Petitioners brings it to the notice of this Court that the Third Respondent/Principal District Judge, Erode through his letter dated 07.08.2007 had appointed the Petitioners No.1 and 2 as 'Copyist' on temporary basis. Moreover, the Third Respondent/Principal District Judge, Erode through his communication dated 03.05.2008 appointed the Petitioners 3 and 4 as 'Copyist' on temporary basis and they joined duty with the Third Respondent based on the appointment orders issued to them.

7.The Learned counsel for the Petitioners proceeds to point out that the Third Respondent/Principal District Judge, Erode through his proceedings dated 30.04.2012 had regularised the services of the Petitioners. In this connection, the Learned counsel for the Petitioners refers to the administrative order of this Court in ROC.No.1428/2013/C3 dated 20.11.2013 whereby and whereunder the Hon'ble High Court had ratified the appointment of all the Petitioners as Copyist and also merged them with the Typist. Apart from that, this Court had directed the Third Respondent/Principal District Judge, Erode to send proposals for regularisation of services of the Petitioners to the Hon'ble High Court for onward transmission of the same to the Government for regularisation.

8.The core plea taken on behalf of the Petitioners is that the proposals were forwarded to this Court by the Third Respondent/Principal District Judge, Erode and later, the same was forwarded to the First Respondent/Government and that the First Respondent/Government had not regularised their services and is keeping the matter pending.

9.Advancing his arguments, the Learned counsel for the Petitioners points out that the Government of Tamil Nadu vide G.O.Ms.1006, Home (Courts V) Department, dated 03.07.2007 had merged the post of Copyist along with the Typist and as on date, there is no post in the cadre of 'Copyist' available in the Sub Court. In reality, the duties and responsibilities for the post of Copyist and Typist are one and the same. At this juncture, the Learned counsel for the Petitioners seeks in aid of the order dated 09.08.2017 passed by the Madurai Bench of this Court in W.P.(MD) No.17938 to 17955 and 20422 to 20431 of 2014 [N.Kesavan & 27 others Vs. The Secretary to Government, Home (Courts-V) Department, Government of Tamil Nadu, Fort St. George, Chennai-9 & 2 others] whereby and whereunder the Government was directed to regularise the Petitioners' services as Typist.

10.The crystalline stand of the Petitioners is that all of them are appointed as Copyist and their appointment process was initiated well before the orders of the Government to merge the post of Copyist and Typist. Also that the selection process had commenced well before merging of Copyist with Typist. In this connection, the Learned counsel for the Petitioners takes a stand that the Petitioners 1 and 2 had attended the interview before merging the post of Copyist and Typist and that the Petitioners are similarly placed individuals and the benefit of the orders passed in W.P.(MD) No.17938 to 17955 and 20422 to 20431 of 2014 dated 09.08.2017 is squarely applicable to the facts of the Petitioners' case.

11.Expatiating his contentions, the Learned counsel for the Petitioners forcefully submits that the Petitioners 1 and 4 were promoted as Assistants by the Third Respondent/Principal District Judge, Erode and presently they are working as Assistants. However, the Petitioners 2 and 3 are still serving as Typists and awaiting for promotion only because of the non regularisation of their services by the First Respondent/Government, the promotion of the Petitioners 2 and 3 was delayed and in short, even some of the similarly placed persons had secured promotion in other Districts. Besides that, similarly placed other persons with the aid of the Hon'ble High Court order had got themselves regularised of their services.

12.Lastly, while summing up, the Learned counsel for the Petitioners contends that the Petitioners had completed nearly 10 years of service in the District Courts with the Third Respondent/Principal District Judge, Erode and they only seek a direction from this Court to regularise their services by the First Respondent/Government. Hence, they have filed the present Writ Petition before this Court seeking for passing of an order in directing the First Respondent to regularise their service as Typist from the date of their joining with the Third Respondent/Principal District Judge, Erode with all attendant benefits being showered upon to them.

13.It transpires that the Third Respondent/Principal District Judge, Erode had addressed a communication to the Second Respondent/Registrar General, Madras High Court in D.No.5430 dated 10.04.2013 inter-alia stated as under:

"... In this connection, I further respectfully submit that after the merger of the post of Copyist as Typist, the vacancies in the post of Typist have to be filled up through Tamil Nadu Public Service Commission and not through Employment Exchange. The instructions issued by the Hon'ble High Court in Madras has to be observed. But the then Principal District Judge, Erode had appointed four Employment Exchange candidates as Copyist in respect of Erode District. The details are as follows: A.....

1.Tmt.A.Rathinam, joined duty as Copyist on 16.08.2007 (A.No.225/2006 dated 07.08.2007).

2.Tmt.C.Kalaiselvi, joined duty as Copyist on 10.08.2007 (A.No.225/2006 dated 07.08.2007).

3.Thiru.V.Nallasivam, joined duty as Copyist on 13.05.2008 (A.No.102/2008 dated 03.05.2008).

4.Thiru. D.Thangamani, joined duty as Copyist on 08.05.2008 (A.No.102/2008 dated 03.05.2008).

Subsequently, their service has been regularised in the post of Copyist. The appointment were made during the years 2007 and 2008.

To set right the lacuna, I beg to solicit kind instructions from the Hon'ble High Court, Madras in this regard to proceed further."

14.As a matter of fact, the Second Respondent/Registrar General, Madras High Court had issued a proceedings in ROC.No.1428/2013/C3 dated 20.11.2013 stating as follows:

"1.The action of the then Principal District Judge, Erode, in having issued proceedings in A.No.225/2006, dated 07.08.2007 and A.No.102/2008

dated 03.05.2008, respectively, appointing 4 copyists, viz., 1)Thiru A.Rathinam 2) Ms.C.Kalaiselvi 3)Thiru.V.Nallasivam and 4) Ms.D.Thangamani, after the date of merger of the post of copyist with that of Typist (03.07.2007), is hereby ratified.

2.The aforesaid 4 copyists are hereby merged with the Typist as regular Typists.

3.Proposals for regularisation of services of the said 4 typists, may be sent to the High Court for forwarding the same to the Government, for regularisation, after obtaining the concurrence of Tamil Nadu Public Service Commission."

15.The Second Respondent/Registrar General in ROC.No.1428/2013/C3 dated 12.02.2014 had addressed a communication to the Principal Secretary to Government, Home Department, Secretariat, Chennai, whereby and whereunder the orders of the Government for regularising the services of the four Writ Petitioners were sought for with effect from 07.08.2007 and 03.05.2008 respectively in Erode District who joined duty as Copyist after the date of merger of post of Copyist with Typist and the communication of the same at the earliest.

16.It is not out of place for this Court to make a pertinent mention that the Additional Secretary to Government in Letter No.12167/Cts.V/2014-1, dated 12.05.2014 addressed to the Assistant Registrar of this Court had stated among other things "... on the date of appointment of the above individuals (i.e., four Writ Petitioners herein) the post of Copyist is not existing in the Tamil Nadu Judicial Ministerial Service. While so, how the aforesaid persons were appointed in the post of Copyist through employment exchange and hence, prayed for a reply in this regard.

17.The Assistant Registrar (Per. Adm.) of this Court had addressed a communication in ROC.No.1428/2013/C3 dated 26.06.2014 to the Learned Principal District Judge, Erode by referring to the letter of the Additional Secretary to Government dated 12.05.2014 in reference No.2 whereby and wherein the Learned Principal District Judge, Erode requested to state as to how the four present Writ Petitioners were appointed in the post of Copyist through Employment Exchange which was not existing in the Tamil Nadu Judicial Ministerial Service as per G.O.Ms.1006/Home (Courts-V) Department, dated 03.07.2007.

18.During the interregnum, the Principal Secretary to Government through Letter No.57439/Cts.V/2011-4, dated 25.07.2014 addressed to the Second Respondent/Registrar General,

High Court of Madras had replied that proposals seeking regularisation of 40 Copyists in Dindigul, Karur and Erode as Typists were not feasible of compliance.

19. Further, the Assistant Registrar (Per. Admn.), High Court of Madras had addressed a letter dated 24.09.2014 in ROC.No.1428/2013/C3 to the Third Respondent/Principal District Judge, Erode whereby and whereunder a reply was sought for from the latest end as to how the four candidates (Writ Petitioners herein) were appointed in the post of Copyist through Employment Exchange etc.

20. Added further, the Second Respondent/Registrar General, Madras High Court in ROC.No.2258/2014/C3 dated 12.02.2015 had addressed a communication to the Learned Principal District Judges of Karur, Dindigul and Erode seeking reasons for having appointed some candidates in the post of Copyist through Employment Exchange in the Districts of Karur, Dindigul and Erode on the date when the post of Copyist is not existing as per G.O.Ms.1006/Home (Courts-V) Department, dated 03.07.2007 etc.

21. The Third Respondent/Principal District Judge, Erode had addressed a reply in D.No.3246 dated 06.04.2015. Likewise, the Principal District Judges of Dindigul and Karur had given replies dated 27.03.2015 and 22.04.2015 respectively to the Second Respondent/Registrar General, Madras High Court in the subject matter in issue.

22. Later the Principal Secretary to Government in letter No.57439/Cts.V/2011-4, dated 25.07.2014 had addressed to the Second Respondent/Registrar General, Madras High Court had stated as under:

"Based on the directions issued in the order 3rd cited, the Government in the G.O. 4th cited have ordered absorption of the petitioners in the post of Typist on the ground that the Principal District Judge, Villupuram commenced the process of recruitment as early as 09.04.2007 well before the date of merger (i.e. 3.07.2007) and have completed the same and appointed the persons as Copyist on 05.7.2007 unaware of the order of merger issued by Government. He has received the order of merger only on 20.08.2007 (i.e., 48 days after the orders were issued for merger). Whereas the Principal District Judges, Erode, Karur and Dindigul have made appointment to the post of copyist long after the merger had taken place. In as much as the post of Copyist cease to exist as on the date of merger (i.e., 03.07.2007) any appointment made to the said post

will not be legally valid and will be in contradiction to the directions of the High Court dated valid and will be in contradiction to the directions of the High Court dated 21.08.2006 which had directed the merger. Therefore, the question of regularizing the above 40 copyists as Typists will not arise, since after the merger the post of Copyist in the Tamil Nadu Judicial Ministerial Service cease to exist. Therefore, your proposals seeking regularisation of 40 Copyists in Dindigul, Karur and Erode as Typists are not feasible of compliance."

23.It comes to be known that the Third Respondent/Principal District Judge, Erode had addressed a letter dated 06.04.2015 to the Second Respondent/Registrar General, High Court, Madras wherein the date of appointment of the First Petitioner was mentioned as 16.08.2007 (joined duty as Copyist), the Second Petitioner on 10.08. 2007 (joined duty as Copyist), the Third Petitioner on 13.05.2008 (joined duty as Copyist) and the Fourth Petitioner on 08.05.2008 (joined duty as Copyist). Further, in the said letter, the length of service put up by the First Petitioner was mentioned as 7 years 7 months 21 days, the length of service of the Second Petitioner was stated as 7 years, 7 months, 28 days, the Third Petitioner was mentioned as 6 years, 10 months, 25 days and the Fourth Petitioner was stated as 6 years 11 months.

24.It transpires from the contents of the aforesaid letter of the Third Respondent/Principal District Judge, Erode addressed to the Second Respondent/Registrar General, Madras High Court at Serial No.6, where it was mentioned that the need for retention of all the temporary candidates was sent as they have completed more than 6 years and 7 years of service, their services were regularised as per the Hon'ble High Court proceedings in ROC.No.1428/2013/C3 dated 20.11.2013 (2nd cited) and further by inadvertently and oversight, the then Principal District Judge, Erode and Personal Assistant to Principal District Judge, Erode appointed the above candidates as Copyist instead of Typist and therefore, the High Court may kindly consider the above appointments as special case and issue favourable orders.

25.The aforesaid letters of the three Learned Principal District Judges were consolidated by the Second Respondent/Registrar General, High Court, Madras and the Second Respondent in turn in R.O.C.No.2258/2014/C3 dated 22.07.2015 had addressed a communication to the Principal Secretary to Government, Home (Courts-V) Department, Secretariat, Chennai, seeking reconsideration of Government views on the proposal for regularisation of the temporary services of the candidates

appointed as Copyists in Karur, Dindigul and Erode District.

26.It is to be pointed out that 28 persons from Dindigul (working as Typists) filed a Writ of Mandamus in W.P.(MD) No.17938 to 17955 and 20422 to 20431 of 2014 [N.Kesavan & 27 others Vs. The Secretary to Government, Home (Courts-V) Department, Government of Tamil Nadu, Fort St. George, Chennai-9 & 2 others] dated 09.08.2017 before this Court seeking to regularise their services as Typist with effect from the date of their joining as Copyist with all consequential benefits and the Hon'ble Division Bench of this Court on 09.08.2017, while allowing the Writ Petitions issued a consequential direction to the First Respondent therein to regularise their services as Typist as done in the case of Copyist who were regularised in Villupuram in the light of the order of the Division Bench of this Court passed in W.P.Nos.8721 to 8732/2009, 8814/2009 and 12376/2009 dated 09.07.2009 within a period of eight weeks from the date of receipt of a copy of the order.

27.In the meanwhile, the four Writ Petitioners submitted a written representation dated 18.09.2017 (through the Third Respondent/Principal District Judge, Erode) addressed to the Second Respondent/Registrar General, Madras High Court seeking to address the Government to reconsider the plea of the Petitioners to regularise their services in the place of Copyists as Typists.

28.When that be the factual position, the Petitioners have filed the present Writ Petition. Now, the Second Respondent/Registrar General, Madras High Court is to address a communication to the Government in the subject matter in issue after complying with all procedural requirements/formalities as the case may be.

29.When a query is raised to the Learned Additional Government Pleader for the First Respondent/Government as how much time is required by the Government to consider the proposal of the High Court vide ROC.No.2258/2014/C3 dated 22.07.2015 which was sent to the First Respondent/Government, then, the Learned Government Pleader fairly submits that within a period of four weeks, the proposal of the High Court in the subject matter in issue will be considered by the First Respondent and therefore, prays for time.

30.In view of the fact that the Learned Additional Government Pleader for the First Respondent/Government had sought for four weeks time to consider the proposal of the Second Respondent/Registrar General, Madras High Court dated 22.07.2015 for reconsideration in the subject matter in issue and also this Court taking note of the fact that the subject

matter involved in the present Writ Petition is covered by the order of the Hon'ble Division Bench of this Court dated 09.08.2017 in W.P.(MD) No.17938 to 17955 and 20422 to 20431 of 2014 [N.Kesavan & 27 others Vs. The Secretary to Government, Home (Courts-V) Department, Government of Tamil Nadu, Fort St. George, Chennai-9 & 2 others] wherein the First Respondent/Secretary to Government, Home (Courts-V) Department, Government of Tamil Nadu, Fort Saint George, Secretariat, Chennai-9 was directed to regularise the services of the Petitioners therein as Typist as done in the case of Copyist whose services were regularised in Villupuram District in the light of the order passed in W.P.Nos.8721 to 8732/2009, 8814/2009 and 12376/2009 dated 09.07.2009, this Court, in the interest of justice, fair play, equity and good conscience, directs the First Respondent to consider the proposal sent by the Second Respondent/Registrar General, Madras High Court and to pass necessary orders in regard to regularisation of services of the Petitioners as Typist, within a period of six weeks (as an outer limit) from the date of receipt of a copy of this order.

31. Accordingly, the Writ Petition shall stand disposed of. Before parting with the case, this Court also directs the First Respondent/Government to send the copy of the order in the subject matter in issue to the individual Writ Petitioners concerned.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

DP

To

1.The Secretary to Government,
Home (Courts-V) Department,
Government of Tamil Nadu,
Fort Saint George, Secretariat,
Chennai-600 009.

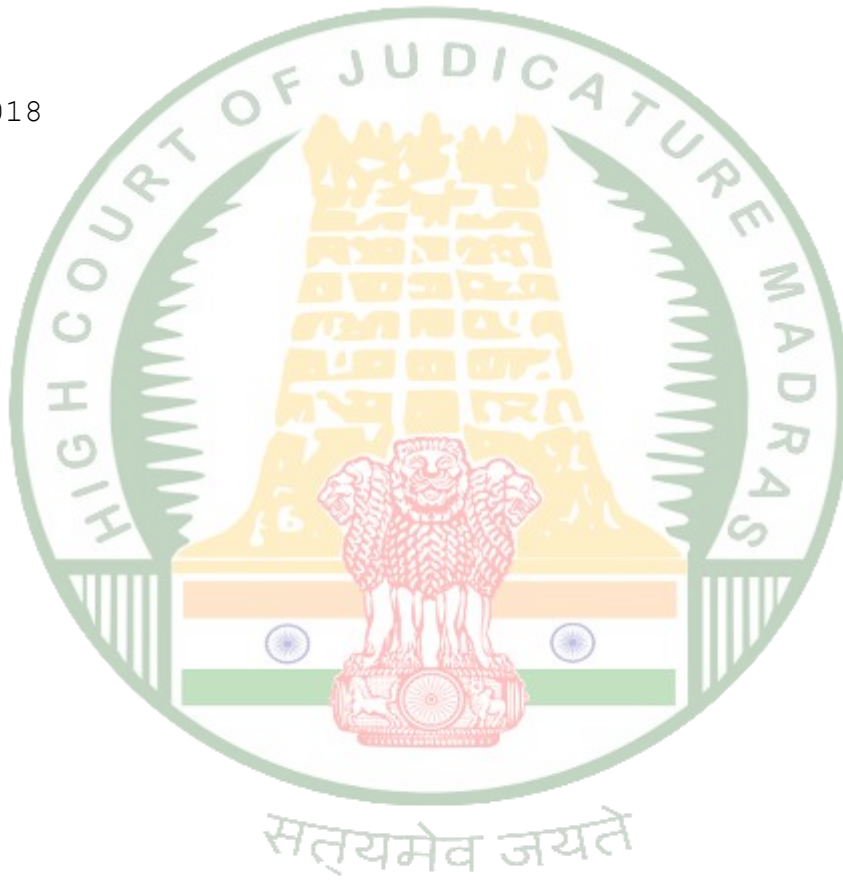
2.The Registrar General,
High Court, Madras.

3.The Principal District Judge,
Erode District,
Erode.

+2 ccs to M/s.Dhananjeyan Advocate sr 29254
+1 cc to the Govt Pleader sr 29200

W.P.No.5002 of 2018

03/05/2018



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