

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2018

CORAM :

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.9701 of 2008

S.Latha

... Petitioner

-Vs-

1. The Government of Tamil Nadu rep. by  
The Secretary to the Government,  
Rural Development and Panchayat Raj  
Department, Fort St.George,  
Chennai - 600 009.

2.The Director of Rural Development and  
Panchayat Raj, Panagal Buildings,  
Chennai - 600 015.

3.The Collector,  
Nagapattinam,  
Nagapattinam District.

... Respondents

Prayer : This Petition was filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the third respondent in Na.Ka.2008/2005/U.Va.2 dated 28.04.2005 and quash the same and direct the respondents to regularize the service of the petitioner in the post of Junior Assistant with effect from the date of his initial appointment, namely, 18-12-1985 and grant all consequential benefits to the petitioner.

For Petitioner : Mr.P.Rajendran

For Respondents : Mrs. S.Thanga Vadhana Balakrishnan  
Additional Government Pleader.

O R D E R

The petitioner prays to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the third respondent in Na.Ka.2008/2005/U.Va.2 dated 28.04.2005 and quash the same and direct the respondents to regularise the services of the petitioner in the post of Junior

Assistant with effect from the date of his initial appointment, (i.e) from 18-12-1985 and grant all consequential benefits to the petitioner.

2. The case of the petitioner is that she was appointed as Junior Assistant on compassionate grounds along with 21 persons, by the proceedings of the Collector, Thanjavur in Na.Ka.No.35030/85/K3 dated 16.12.1985. The petitioner was a daughter of one G.S.Sundar Rajan, who was working in Papanasam Panchayat Union, Thanjavur district and died on 04.07.1984, while he was in service. The Government of Tamil Nadu issued an order in G.O.Ms.No.138 of Rural Development (E-5) Department, dated 02.04.1991 and in the said order, the services of the petitioner in the post of Junior Assistant was regularised. That apart, the learned counsel for the petitioner would contend that the petitioner's services from 18.12.1985 to 01.04.1991 was not taken into account for regularisation of services. However, in the case of similarly placed persons, joined along with petitioner namely K.Kamalanathan, D.Malarvizhi and M.Mangaiyarkarasi, have been regularized with effect from the date of their initial appointment.

3. The petitioner would contend that only her services has not been regularized as per the said Government Order, but the others were regularised which is not correct and would further contend that her request to regularise from the date of initial appointment for the post of Junior Assistant ought to have been done by the said Collector, Nagapattinam. The petitioner's representation was not considered by the then Collector, Nagapattinam and he had issued an order in Na.Ka.2008/05/Vu.Va.2 dated 28.04.2005 stating that the petitioner's father died while in service on 04.07.1984 and the G.O.Ms.No.164, Rural Development Department dated 07.08.1996, is applicable only to the legal heirs of the Panchayat Union employees, who died prior to 01.04.1974. Therefore, the petitioner is not eligible for regularisation from the date of her initial appointment as per G.O.M.S.No.164, Rural Development Department dated 07.08.1996.

4. Aggrieved by the said order of the Collector, the petitioner sent a representation to the Director of Rural Development, Panagal Buildings, Chennai - 600 015, who is the second respondent herein, on 29.10.2005 requesting her to set-aside the order of the Collector, namely the third respondent, but it was not considered. Hence, the petitioner having no other alternative has approached this Court by way of filing this Writ petition.

5. It could be seen from the records that the petitioner was appointed as Junior Assistant along with 21 persons on

16.12.1985 and by issuance of order in G.O.Ms.No.138, Rural Development (E-5) Department, dated 02.04.1991, the services of the petitioner has been regularised, from the date of issuance of order on 02.04.1991. It is stated by the Collector, that the services of the petitioner could not be regularised from the date of his initial appointment (i.e) on 18.12.1985, due to the reason that G.O.Ms.No.164, Rural Development Department dated 07.08.1996, was passed only for the benefits of legal heirs of the Panchayat Union employees, who died earlier to 01.04.1974 and the said G.O. was not applicable to the petitioner since the petitioner's father died on 04.07.1984.

6. The learned counsel for the petitioner would contend that the reasons stated by the third respondent for not regularising the services of the petitioner from the date of his initial appointment was based on G.O.Ms.No.164, Rural Development Department, dated 07.08.1984 and the same is not applicable to the petitioner herein.

7. The learned counsel for the respondent would contend that the petitioner cannot claim appointment on compassionate ground and its regularization as a matter of right and it can be applied only upon the prevailing circumstances and the Government can help the family of the deceased by providing employment to any one of the legal heirs of the family and the said G.O has only retrospective effect and no prospective effect. The Government had issued guidelines in G.O.Ms.No.164, Rural Development Department dated 07.08.1996. Only with a view to rectify the anomaly in regularising the services of compassionate ground appointments made between the ministerial staff of Panchayat Union, who were brought under Government Establishment from 01.04.1974 and the Union School Teachers, who were brought under Government Service from 01.06.1981. The services of compassionate ground appointees can be regularized with reference to Go's only, if not already regularized. Hence, the services of the petitioner had been regularized from 02.04.1991, by an individual GO, vide G.O.Ms.No.130, Rural Development (E5) Department dated 02.04.1991.

8. The learned counsel for the respondent would further contend that the petitioner, filed this writ petition seeking for a revision of such date of regularization retrospectively from 18.12.1985, which amounts to overriding the specific individual order issued by the Government, since, there is no specific direction in the said GO to reopen the case.

9. It is also seen from the records that at the time of regularization the Collector of Thanjavur District was the

competent authority to regularize the petitioner's services, and to fix her seniority in the combined list of Thanjavur District, considering the services of the persons whose names were included in the seniority list of Junior Assistants from the year 1985 to 2005. When the said G.O. Ms. No. 138, Rural Development (E-5), Department, dated 02.04.1991, has not been challenged by the petitioner, when it was issued on 02.04.1991, regularizing her services from 02.04.1991, the claim of the petitioner, after an inordinate delay of 20 years that too without any reasons for the delay of claiming such right by the petitioner, cannot be accepted by this Court.

10. In view of the above facts and circumstances, this Court is of the view that there is no merit in the case. Hence, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

smn

To

1. The Government of Tamil Nadu rep. by  
The Secretary to the Government,  
Rural Development and Panchayat Raj  
Department,  
Fort St. George, Chennai - 600 009.

2. The Director of Rural Development and  
Panchayat Raj,  
Panagal Buildings, Chennai - 600 015.

3. The Collector,  
Nagapattinam,  
Nagapattinam District.

+ 1 cc to the Government Pleader Sr. 42248

W.P.No.9701 of 2008

SR(CO)

EU(09/11/2018)