

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2018

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice N.ANAND VENKATESH

W.P.No.20925 of 2012

N.Muruganandam

Petitioner

Vs

The District Judge,
Thiruvarur District Court,
Thiruvarur.

Respondent

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records relating to the orders in R.No.6473/2011 dated 19.07.2012 of the respondent, quash the same and issue consequential directions to the respondent to count the service rendered by the petitioner from 01.04.2009 to 18.01.2011 as continuous service in the post of xerox operator and fix the pay and benefits arising therein to the petitioner.

For Petitioner .. Mr.T.Dhanasekaran

For Respondents.. Mr.V.Ayyadurai,
Sr. Counsel
for Mr.A.Durai Eswar

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

Challenging the order of the respondent dated 19.07.2012 and for a direction to the respondent to count the service rendered by the petitioner from 01.04.2009 to 18.01.2011 as continuous service in the post of Xerox Operator and fix the pay and benefits arising therein, the present writ petition has been filed.

2.The petitioner herein was originally appointed as a Xerox Operator. On his request, by the proceedings dated 26.03.2009, the petitioner was reverted to the post of Office Assistant. But a challenge was made in W.P.No.7933 of 2009 to the appointment made in favour of the petitioner as Xerox Operator along with one M.Ravichandran. After hearing the parties, the Division Bench of this Court has held as under:

"12.In that view of the matter, it was incumbent on the part of the first respondent to consider the case of the petitioner, whose name was forwarded on 14.09.2007, along with others for appointment to the post of Xerox Operator on the basis of 100 point roster prescribed as was invoked at that stage. Without following the said procedure and without considering the case of the petitioner, the first respondent having started fresh selection on the basis of G.O.Ms.No.241 dated 29.10.2007, which is not applicable for the vacancies which fell vacant prior to 15.09.2007, we hold that the selection of respondents 3 and 4 as illegal.

13.Accordingly, the first respondent is directed to fill up the posts of Xerox Operators, which were created by G.O.Ms.No.978 dated 27.06.2007 on the basis of the names were forwarded by the employment exchange on 14.09.2007. The case of only those whose names were forwarded on 14.09.2007 including the petitioner and the third respondent, can be considered for the post of Xerox Operator on the basis of 100 point roster, without taking into consideration G.O.Ms.No.241 dated 29.10.2007. The selection procedure has to be completed within a period of three months. In the meantime, respondents 3 and 4 may be allowed to continue till the regular respondent is made out of the said selection. So far as the fourth respondent is concerned, he being a physically handicapped, the first respondent may consider his case against any other vacancy, if any or if fall vacant in future."

3.It appears that the order of reversion was not brought to the notice of the Division Bench. However, the petitioner was once again posted as Xerox Operator with effect from 12.01.2011. The petitioner thereafter made a request for regularising his services rendered earlier, which was found to be illegal by the Division Bench in the order referred supra. It was accordingly rejected by the impugned order dated 19.07.2012 stating that the reversion was considered on the request of the petitioner, which has not been challenged and the order passed in W.P.No.7933 of 2009 has become final. Challenging the same, the present writ petition has been filed.

4.Learned counsel appearing for the petitioner would submit that the regularisation order dated 26.03.2009 has not been challenged before this Court. Therefore, the services rendered earlier as a Xerox Operator will have to be taken into consideration. We are afraid that the said contention cannot be accepted for more than one reason. Firstly, the petitioner was reverted as Office Assistant on his request. This order has not been challenged. In fact, this order has become final as against the petitioner. More so, this order was passed on request. Secondly, the order passed by the Division Bench militates against the petitioner's request for consideration of the services rendered earlier.

5.In such view of the matter, we do not find any error in the order passed by the respondent. Accordingly, the writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mmi

To

The District Judge,
Thiruvarur District Court,
Thiruvarur.

+lcc to Mr.T.Dhanasekaran, Advocate Sr.47403

W.P.No.20925 of 2012

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