



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.01.2018

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.2126 of 2011

A.M.Rajeswari

... Petitioner

-vs-

1.The Managing Director,
Tamil Nadu Housing Board,
493, Anna Salai,
Nandanam,
Chennai-600 035.

2.The Secretary to Government of Tamil Nadu,
Housing and Urban Development Department,
St. George Fort,
Chennai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the first respondent's proceedings made in Memo.No.PNT.5/45315/10 dated 09.02.2010 and quash the same and further direct the first respondent to regularize service of the petitioner herein in the post of Typist with effect from 02.04.1992 (date of joining the service), within a stipulated period.

For Petitioner : Mr.R.Sundar

For R2 : Mr.R.Sethuraman
Special Government Pleader

For R1 : No Appearance

O R D E R

The relief sought for in this writ petition is to quash the order, dated 09.02.2010 and regularise the services of the petitioner in the post of Typist with effect from 02.04.1992.

2.The learned counsel appearing on behalf of the petitioner made a submission that the writ petitioner was initially appointed as Typist in Madurai Housing Unit vide proceedings, dated 20.02.1992. Accordingly, she joined duty on 02.04.1992. The order of appointment states that the writ petitioner was appointed under the Regulations 8(a) of the TNHB Service Regulations and pending approval of the proposal by the Government. The appointment was made on temporary basis as typist. However, the petitioner was granted



time scale of pay. Subsequently, the Government approved the appointment and an order was passed vide proceedings, dated 21.02.1995. Based on the order of the Government, the Managing Director issued the consequential order vide proceedings, dated 18.08.1997. Accordingly, the services of the writ petitioner was regularised with effect from 21.02.1995.

3.The grievances of the writ petitioner is that though she had joined as Typist on temporary basis on 02.04.1992, her services were regularised only with effect from 21.02.1995. The learned counsel for the petitioner states that there was no irregularity whatsoever in the initial appointment of the writ petitioner and other similarly placed persons were granted regularisation with there respective date of joining in service. In view of these factors, the case of the writ petitioner also be considered.

4.The learned Special Government Pleader appearing on behalf of the respondents opposed the said contentions by stating that the writ petitioner was initially appointed only on temporary basis and therefore, the benefit of regularisation granted by the Government itself is a concession and the retrospective regularisation cannot be granted from the date of initial appointment.

5.This Court is of an opinion that the regularisation and permanent absorption cannot be granted contrary to the service Rules in force. If any appointment is made in violation of recruitment Rules, then the benefit of regularisation cannot be granted. However, if the initial appointment is made in accordance with the procedure, then the employee is entitled to get the regularisation from the date of initial appointment. However, these factors are to be verified while considering the case of the petitioner with effect from the initial appointment. In these circumstances, without going into merits of the case, this Court directs the first respondent to consider the case of the writ petitioner by verifying the records of initial appointment in accordance with the Rules and pass orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order. The writ petitioner is at liberty to submit a fresh representation setting out all the grounds and the documents along with the order passed in this writ petition.

6.With the above direction, the writ petition is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/



To

1.The Managing Director,
Tamil Nadu Housing Board,
493, Anna Salai,
Nandanam, Chennai-600 035.

2.The Secretary to Government of Tamil Nadu,
Housing and Urban Development Department,
St. George Fort,
Chennai.

+1CC to Mr.R.Sundar, Advocate, SR.No. 43841

+1CC to the Special Government Pleader SR.No.44329

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