

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:23.01.2019

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.36462 of 2003

1. P.Anbalagan
2. V.Chandran
3. V.S.Shankar
4. A.Rajendran
5. S.Damodaran
6. M.G.Dhanaraj
7. A.Srinivasan

All working as Estate Attenders,
O/o. Official Liquidator,
High Court of Madras,
1st floor, Kuralagam, Esplanade,
Chennai - 600 108.

... Petitioner

Versus

- 1.The Union of India,
rep. by the Secretary,
Department of Company Affairs,
Shastri Bhavan,
New Delhi.
- 2.Regional Director,
Department of Company Affairs,
Southern Region,
Shastri Bhavan,
Chennai 600 006.
- 3.The Official Liquidator,
High Court of Judicature at Madras,
Kuralagam, 1st floor, Esplanade,
Chennai - 600 108.
- 4.The Secretary,
Staff Selection Commission,
O/o. Union Public Service Commission,
New Delhi.

5.The Secretary,
Department of Personnel and Training,
Ministry of Personnel,
Public Grievance and Pension,
New Delhi.

... Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to regularize the services of the petitioners under Grade D services in the office of the Official Liquidator at Chennai.

For Petitioner : Mrs.C.Uma

For Respondents : Mr.G.Rajagopalan
Addl. Solicitor General of India
for R4 & R5

Mr.K.Raju. CGSC for R1, R2,R3

O R D E R

The relief sought for in the present writ petition is for a direction to direct the respondents to regularize the services of the petitioners under Grade-D services in the office of the Official Liquidator at Chennai.

2. The grievances of the writ petitioners are that they were appointed in Group-D services by the Official Liquidator, High Court of Judicature, Madras during the year 1978, 1979, 1981, 1982, 1989 and 1990 respectively. All the writ petitioners are serving in the office of the Official Liquidator for a considerable length of time.

3. The learned counsel for the writ petitioner brought to the notice of this Court that even now all these writ petitioners are serving in the Office of the Official Liquidator. Out of 7 writ petitioners, one writ petitioner after absorption attained the age of superannuation and allowed to retire from service. In respect of the other 6 writ petitioners, 3 writ petitioners were already absorbed and now working under the permanent establishment.

4. However, the remaining 3 writ petitioners are concerned, their services are yet to be regularized and the respondents are delaying the benefit of regularization on the ground that the vacancies are not available. The learned counsel for the writ

petitioner reiterated that the writ petitioners were also entitled for regularization based on the judgement of the Hon'ble Supreme Court of India and in view of the fact that, other 4 writ petitioners had already been regularized with reference to the judgement of the Apex Court of India. Thus, the same benefit is to be extended to the remaining three writ petitioners also as they are also working in the Office of the Official Liquidator along with the other writ petitioners for a considerable length of time.

5. The learned Additional Solicitor General of India appearing on behalf of the respondents made a submission that, undoubtedly, there is a delay in filing the counter affidavit filed by the respondents. The delay occurred on account of certain judgements passed by the Hon'ble Supreme Court of India during the pendency of the writ petition.

6. This Court is of an opinion that the subsequent judgement is one aspect of the matter and on receipt of Rule Nissi notice from the High Court, the respondents are bound to file counter affidavit in respect of the facts and circumstances prevailing during the relevant point of time. The said procedures are to be followed by the respondents punctually and promptly in future.

7. As far as the present writ petition is concerned, the learned Senior Counsel made a submission that pursuant to the orders of the Hon'ble Supreme Court of India dated 04.11.2008, the scheme was framed akin to that of the scheme framed during the year 1978. Accordingly, many number of persons were absorbed in the regular vacancies and all those employees are now working as permanent employees in the time scale of pay. However, the cases of these 3 writ petitioners were not considered on account of the fact that the vacancies are not available in the department. Another point is also raised that the writ petitioners had not completed SSLC as per the service rules in force.

8. The learned counsel for the writ petitioners states that during the relevant point of time, when the other writ petitioners were regularized, the educational qualification prescribed was pass in 8th standard. The subsequent amendment made in the service rules shall not affect the interest of the employees who had already been appointed in the services and further the benefit of regularization had already been extended to all other similarly placed employees. Thus, the amended service rules shall not have any application with reference to the three writ petitioner's whose services are yet to be regularized by the respondents in accord with the judgement of the Hon'ble Supreme Court of India and the scheme formulated by

the respondents for absorption/regularization.

9. The learned Senior Counsel fairly made a submission that, in the event of availability of vacancies in the department, the cases of the left over three writ petitioners will be considered for grant of regularization. In view of the said submission, this Court is inclined to pass the following orders.

1. The respondents are directed to regularize the services of the 3 writ petitioners namely, S.Damodaran, M.G.Dhanaraj and A.Srinivasan, soon after the available of vacancy in Group-D services.
2. The service benefits as per the rules are to be extended to the above three writ petitioners whose services are yet to be regularized in the event of their regularization in the permanent vacancies.
3. It is made clear that the respondents shall not insist the amended educational qualification of SSLC in respect of the three writ petitioners whose services are yet to be regularized based on the judgement of the Hon'ble Supreme Court of India and as per the scheme formulated.

10. With these directions, the writ petition stands disposed of. No Costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Pkn

To

1. The Secretary,
Union of India,
Department of Company Affairs,
Shastri Bhavan,
New Delhi.
2. Regional Director,
Department of Company Affairs,
Southern Region,
Shastri Bhavan, Chennai.
3. The Official Liquidator,
High Court of Judicature at Madras,
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4.The Secretary,
Staff Selection Commission,
O/o. Union Public Service Commission,
New Delhi.

5.The Secretary,
Department of Personnel and Training,
Ministry of Personnel,
Public Grievance and Pension,
New Delhi.

+1 cc to Mr.K.Raju, Advocate Sr.No.4966

+1 cc to Mrs.C.Uma, Advocate Sr.No.5112

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EV(CO)
CSL/13.02.2019



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