

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2019

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. Nos. 11566, 11571, 11573 & 11574 of 2019

W.P. No. 11566 of 2019

K.Thenmozhi

... Petitioner

Vs.

1.The Union of India
Rep by its Secretary to Government of India
The Ministry of Corporate Affairs
5th Floor, Shastri Bhavan
"A"block, Dr.Rajendra Prasad Road
New Delhi - 100 001.

2.The Regional Director
Ministry of Corporate Affairs
5th Floor, Shastri Bhavan
No.26, Haddows Road
Chennai - 600 006.

3.The Official Liquidator
Ministry of Corporate Affairs
Corporate Bhavan, II Floor
No.29, Rajaji Salai
Chennai - 600 001.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to absorb/ regularize the petitioner as regular lower division clerk in the office of the 3rd respondents with effect from the respective date of appointment on 26.03.1993 as Estate Clerks and further direct to grant the benefit of pay fixation and all admissible allowances, arrears of salary and other consequential benefits and allowances including promotion in the service from the date service of initial appointment on 26.03.1993.

For Petitioner : Mr.K.Jayaraman

W.P. No. 11571 of 2019

R.Jagadeesan

... Petitioner

Vs.

1.The Union of India

Rep by its Secretary to Government of India
The Ministry of Corporate Affairs
5th Floor, Shastri Bhavan
"A"block, Dr.Rajendra Prasad Road
New Delhi - 100 001.

2.The Regional Director

Ministry of Corporate Affairs
5th Floor, Shastri Bhavan
No.26, Haddows Road
Chennai - 600 006.

3.The Official Liquidator

Ministry of Corporate Affairs
Corporate Bhavan, II Floor
No.29, Rajaji Salai
Chennai - 600 001.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to absorb/regularize the petitioner as regular lower division clerk in the office of the 3rd respondents with effect from the respective date of appointment on 13.03.1995 as Estate Clerks and further direct to grant the benefit of pay fixation and all admissible allowances, arrears of salary and other consequential benefits and allowances including promotion in the service from the date service of initial appointment on 13.03.1995.

For Petitioner : Mr.K.Jayaraman

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W.P. No. 11573 of 2019

K.Vijaya

... Petitioner

Vs.

1.The Union of India

Rep by its Secretary to Government of India
The Ministry of Corporate Affairs
5th Floor, Shastri Bhavan
"A"block, Dr.Rajendra Prasad Road
New Delhi - 100 001.

2.The Regional Director

Ministry of Corporate Affairs
5th Floor, Shastri Bhavan
No.26, Haddows Road
Chennai - 600 006.

3.The Official Liquidator

Ministry of Corporate Affairs
Corporate Bhavan, II Floor
No.29, Rajaji Salai
Chennai - 600 001.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to absorb/ regularize the petitioner as regular lower division clerk in the office of the 3rd respondents with effect from the respective date of appointment on 23.10.1996 as Estate Clerks and further direct to grant the benefit of pay fixation and all admissible allowances, arrears of salary and other consequential benefits and allowances including promotion in the service from the date service of initial appointment on 23.10.1996.

For Petitioner : Mr.K.Jayaraman

W.P. No. 11574 of 2019

सत्यमेव जयते

P.Sathiyaseelan

... Petitioner

Vs.

1.The Union of India

Rep by its Secretary to Government of India
The Ministry of Corporate Affairs
5th Floor, Shastri Bhavan
"A"block, Dr.Rajendra Prasad Road
New Delhi - 100 001.

2.The Regional Director
Ministry of Corporate Affairs
5th Floor, Shastri Bhavan
No.26, Haddows Road
Chennai - 600 006.

3.The Official Liquidator
Ministry of Corporate Affairs
Corporate Bhavan, II Floor
No.29, Rajaji Salai
Chennai - 600 001.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to absorb/ regularize the petitioner as regular lower division clerk in the office of the 3rd respondents with effect from the respective date of appointment on 13.02.1987 as Estate Clerks and further direct to grant the benefit of pay fixation and all admissible allowances, arrears of salary and other consequential benefits and allowances including promotion in the service from the date service of initial appointment on 13.02.1987.

For Petitioner : Mr.K.Jayaraman

C O M M O N O R D E R

The relief sought for in these writ petitions are for a direction to direct the respondents to regularize the services of the petitioners under Lower Division Clerk in the office of the Official Liquidator at Chennai.

2. The grievances of the writ petitioners are that they were appointed in Estate Clerk by the Official Liquidator, Department of Corporate Affairs, Chennai, during the years 1993, 1995, 1996 and 1987. The writ petitioners are serving in the office of the Official Liquidator for a considerable length of time. The learned counsel for the writ petitioners brought to the notice of this Court that even now the writ petitioners are serving in the Office of the Official Liquidator.

3. The learned counsel for the writ petitioners reiterated that the writ petitioners are entitled for regularization based on the judgment of the Hon'ble Supreme Court of India.

4. As far as the present writ petitions are concerned, the learned Counsel made a submission that pursuant to the orders of the Hon'ble Supreme Court of India dated 27.08.1999, 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 the writ petitioners were not considered on account of the fact that the vacancies are not available in the department.

5. The learned counsel for the writ petitioners state that during the relevant point of time, when the other employees 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 present writ petitioners service which is yet to be regularized by the respondents in accord with the judgment of the Hon'ble Supreme Court of India and the scheme formulated by the respondents for absorption/regularization.

6. The learned Counsel fairly made a submission that, in the event of availability of vacancies in the department, the case of the 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 service of the writ petitioners soon after the availability of vacancy.

2.The service benefits as per the rules are to be extended to the 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 writ petitioners whose services are yet to be regularized based on the judgment of the Hon'ble Supreme Court of India and as per the scheme formulated.

7. With these directions, these writ petitions stand disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government of India
The Ministry of Corporate Affairs
5th Floor, Shastri Bhavan
"A"block, Dr.Rajendra Prasad Road
New Delhi - 100 001.

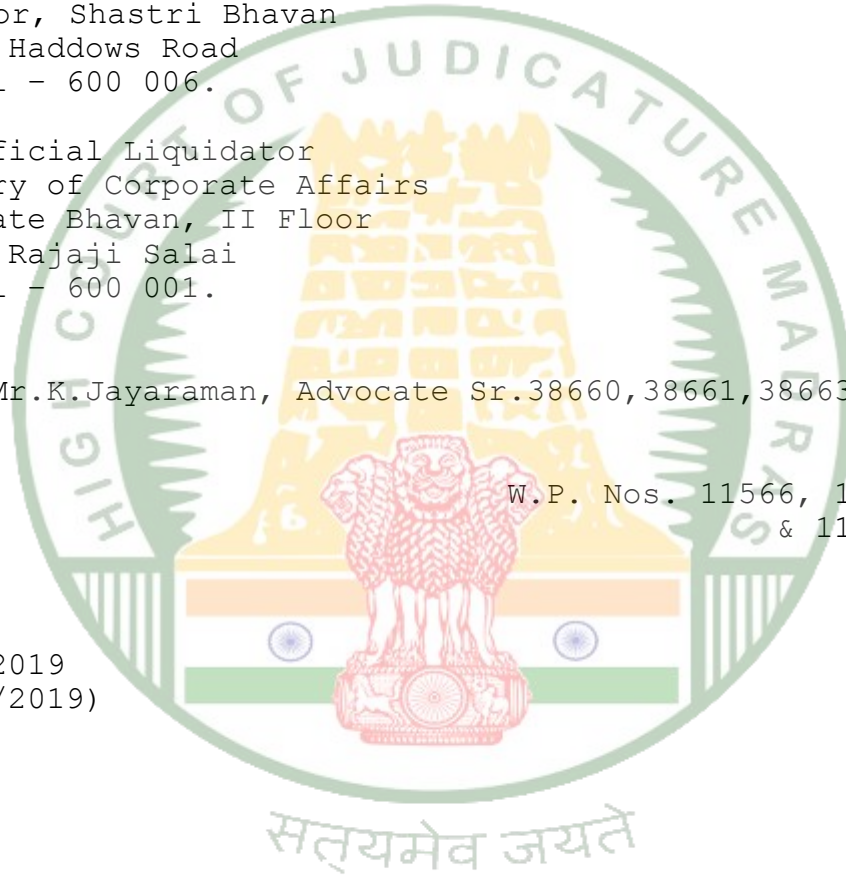
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Ministry of Corporate Affairs
Corporate Bhavan, II Floor
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Chennai - 600 001.

+4CCs to Mr.K.Jayaraman, Advocate Sr.38660,38661,38663 & 38664

W.P. Nos. 11566, 11571, 11573
& 11574 of 2019

srg 06/6/2019
Kak(04/09/2019)



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