

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:25.02.2019

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.15053 of 2018

K.M.Wilson

... Petitioner

Versus

- 1.The Union of India,
represented by its Secretary to Govt. of India,
The Ministry of Corporate Affairs,
5th Floor, Shastri Bhavan, 'A' Block,
Dr.Rajendra Prasad Road,
New Delhi - 110 001.
- 2.The Ministry of Corporate Affairs,
Represented by The Regional Director,
5th Floor, Shastri Bhavan,
No.26, Haddows Road,
Chennai - 600 006.
- 3.The Official Liquidator,
Department of Corporate Affairs,
Corporate Bhavan, II Floor,
No.29, Rajaji Salai,
Chennai - 600 001. ... 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 petitioner as regular lower division clerks in the office of the respondents with effect from the respective date of appointment on 01.12.1988 as estate clerks and further direct to grant the benefits of pay fixation and all admissible allowances, arrears of salary and other consequential benefits and allowances including promotion in the service from the date of initial appointment on 01.12.1988.

For Petitioner : Mr.A.P.Surya Prakasam

For Respondents : Mr.K.B.Arul for RR1 & 2
Central Govt. Standing Counsel

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 petitioner as regular lower division clerks in the office of the respondents with effect from the respective date of appointment on 01.12.1988 as estate clerks and further

direct to grant the benefits of pay fixation and all admissible allowances, arrears of salary and other consequential benefits and allowances including promotion in the service from the date of initial appointment on 01.12.1988.

2. The grievance of the writ petitioner is that he was appointed as an Estate Clerk otherwise termed as "Company Paid Staff" by first respondent on 01.12.1988 and continuing his service for more than 30 years at the office of the third respondent at Chennai.

3. The learned counsel for the writ petitioner brought to the notice of this Court that the company paid staff of the office of the Court liquidator in Calcutta High Court directed the respondents to give full status of permanent Central Government employees with consequential benefits and Division Bench of the Calcutta High Court has also confirmed the single Judge order and dismissed the appeal preferred by the Union of India.

4. The learned counsel for the writ petitioner reiterated that the writ petitioner was also entitled for regularization based on the judgement of the Honourable Supreme Court of India and in view of the fact that, the writ petitioner 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 writ petitioner and working in the office of the Court Liquidator for a considerable length of time.

5. Heard, Mr.K.B.Arul, Central Government Standing Counsel appearing on behalf of the respondents 1 and 2.

6. The learned counsel for the writ petitioner further submitted that pursuant to the orders of the Honourable Supreme Court of India dated 30.06.2017, 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.

7. 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 this writ petitioner whom service is yet to be regularized by the respondents in accordance with the judgement of the Honourable Supreme Court of India and the scheme formulated by the respondents for absorption/regularization.

8. The learned counsel for the writ petitioner fairly made a submission that, in the event of availability of vacancies in the department, the case of the writ

petitioner 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 petitioner, soon after the available of vacancy in lower division clerks.
2. The service benefits as per the rules are to be extended to the writ petitioner whom service is yet to be regularized in the event of his 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 the writ petitioner whom service is yet to be regularized based on the judgement of the Honourable Supreme Court of India and as per the scheme formulated.

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

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

arb/ssb
To

1. The Secretary,
Government of India,
The Ministry of Corporate Affairs,
5th Floor, Shastri Bhavan, 'A' Block,
Dr. Rajendra Prasad Road,
New Delhi - 110 001.

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

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

+1cc to Mr.A.P.Surya Prakasam , Advocate SR.No. 17974

W.P.No.15053 of 2018

A.SK(22/03/2019)