

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.02.2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.15054 of 2018

S.Usharani

... Petitioner

..Vs..

1. The Union of India,
Rep. 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,
Rep. 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 : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to absorb/regularize the petitioner as regular lower division clerks in the office of the respondents with effect from the respective date of appointment on 11.05.1983 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 11.05.1983.

For Petitioner : Mr.P.Sankar Rao

For Respondents : Mr.K.B.Arul, CGSC
for R1 & R2

Mr.V.P.Sengotuvel for 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 petitioner under Grade-D services in the office of the Official Liquidator at Chennai.

2. The grievances of the writ petitioner is that he was appointed in Group-D services by the Official Liquidator, Department of Corporate Affairs, Chennai, during the year 1983. The writ petitioner is serving in the office of the Official Liquidator for a considerable length of time. The learned counsel for the writ petitioner brought to the notice of this Court that even now the writ petitioner is serving in the Office of the Official Liquidator.

3. The learned counsel for the writ petitioner reiterated that the writ petitioner is entitled for regularization based on the judgement of the Hon'ble Supreme Court of India.

4. As far as the present writ petition is concerned, the learned 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 case of the writ petitioner was not considered on account of the fact that the vacancies are not available in the department.

5. The learned counsel for the writ petitioner states 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 petitioner's service which is 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.

6. The learned Counsel 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 availability of vacancy in Group-D services.
 2. The service benefits as per the rules are to be extended to the writ petitioner whose service is 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 petitioner whose service is yet to be regularized based on the judgement of the Hon'ble Supreme Court of India and as per the scheme formulated.
7. 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,
The Ministry of Corporate Affairs,
5th floor, Shastri Bhavan,
A Block, Dr.Rajendra Prasad Road,
New Delhi - 110 001.
 2. The Regional Director,
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.
- +1 cc to M/s.P.Ravi Shankar Rao, Advocate Sr.No.15854

W.P.No.15054 of 2018

CSL/21.03.2019