



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.12.2019

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD)No.12221 of 2011

and

M.P (MD)No.1 of 2011

R.Ravindran

.. Petitioner

Vs.

1.Government of Tamil nadu

rep. by Secretary to Government,
Revenue Department,
St. George Fort,
Chennai - 9.

2.The Commissioner / Director of

Survey and Settlement,
Chepauk, Chennai - 5.

3.The Assistant Director of

Survey and Settlement,
Madurai.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to (1) Letter Bi.50133/SS 4(1)/05+4 dated 31.03.2006 of the 1st respondent; (2) proceeding of the 2nd respondent in O.Mu.R2/37712/08 (Ni Aa), dated 07.11.2008; and (3) proceeding of the 3rd respondent in O.Mu.Aa.No.14/10105/2008, dated 27.11.2008, quash the same and issue direction to the respondents to regularize the services of the petitioner in the post of Junior Assistant with effect from 25.06.1984 and refix his seniority in the post of Junior Assistant and Assistant with all consequential benefits including promotion as Superintendent with retrospective effect from the date of promotion of the petitioner's immediate junior and pass such further or other orders.

For Petitioner

: Mr.M.Ravi

For Respondents

: Mr.C.Dhayalan,

Government Advocate.

ORDER

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the letter of the 1st respondent, dated 31.03.2006, proceedings of the 2nd respondent, dated 07.11.2008 and the proceedings of the 3rd respondent, dated 27.11.2008 and quash the same and also direct the respondents to regularize the services of the petitioner in the post of Junior Assistant with effect from 25.06.1984 and refix his



seniority in the post of Junior Assistant and Assistant with all consequential benefits including promotion as Superintendent with retrospective effect from the date of promotion of the petitioner's immediate junior.

2. The case of the petitioner is that he was initially appointed as Junior Assistant on consolidated pay basis of Rs.450/- through the Employment Exchange in the year 1982 and he was placed in the time scale of pay of Rs.975-25-1600/- with effect from 22.01.1990 and subsequently, his service in the post of Junior Assistant was regularized from the same date. He was promoted as Assistant in the year 1998. His service ought to have been regularised in the post of Junior Assistant from the date of his initial appointment, but the same has been regularised only from the year 1990 thereby depriving him of his service and monetary benefits accrued from 1983 to 1990. Therefore, he made several representations to the respondents 1 and 2 seeking regularization of his service in the post of Junior Assistant from the date of his initial appointment or with effect from 25.06.1984 in accordance with G.O.Ms.No.996, Personnel and Administrative Reforms (Placements), Department, dated 22.09.1984. Since the same was not considered, he filed W.P.No.30202 of 2005, in which, by an order, dated 17.09.2005, this Court directed the 1st respondent to consider the petitioner's representation dated 04.03.2005 in accordance with law; take a decision thereon and communicate the same to him in any event, not later than 31.12.2005, upon which, the 1st respondent, passed the impugned order, dated 31.03.2006 and the same reads as follows:

"I am directed to state that as per the orders of Honourable High Court in W.P.No.30202 of 2005, dated 17.9.2005 Government have examined your representation dated 4.3.2005. In G.O.Ms.No.996 (P&Ar) dated 22.9.1984 orders were issued to regularise those who were recruited through employment exchange and appointed in Time Scale of pay as 10(a)(i) of Tamil Nadu State and Subordinate service rules with effect from 25.6.1984. But you have been appointed on consolidated pay as Junior Assistant with effect from 10.1.1983 in Survey and Land Records Department and absorbed in regular time scale as Junior Assistant with effect from 22.1.1990 in pursuance of G.O.Ms.No.910 CT & RE, dated 10.8.83 and regularised with effect from 22.1.1990, your request to regularise with effect from 10.1.1983 cannot be complied with".

Against which, the petitioner preferred review petitions dated 20.01.2007 and 29.08.2008 and the second respondent, by an order, dated 07.11.2008, refused to send the same to the Government and the same is communicated to the petitioner, vide proceedings of the 3rd respondent, dated 27.11.2008. Therefore, the petitioner sent the copy of the review petition to the 1st respondent directly and through proper channel on 12.02.2009. But, no order has been passed



on the same. Therefore, the present writ petition has been filed.

3.The learned counsel for the petitioner submitted that the similarly placed persons were regularized with effect from 25.06.1984 in accordance with G.O.Ms.No.996, dated 22.09.1984 and the issue involved in this writ petition is squarely covered by the decision of this Court, dated 25.03.2014, made in W.P.Nos.12477 and 12478 of 2007 in the case of **G.Sivaraman and Another v. Government of Tamil Nadu, rep. by its Secretary to Government, Revenue Department, Fort St. George, Chennai - 9 and others** and prayed for passing similar orders. He further submitted that the petitioner has continuously sent representations to the Government and without considering the orders passed in respect of the similarly placed persons, his request has been rejected and therefore, there is a delay in filing the present writ petition.

4.The learned Government Advocate appearing for the respondents submitted that in G.O.Ms.No.996, dated 22.09.1984, orders were issued to regularise those who were recruited through employment exchange and appointed in time scale of pay as 10(a)(i) of Tamil Nadu State and Subordinate Service Rules with effect from 25.06.1984, but the petitioner has been appointed on consolidated pay as Junior Assistant with effect from 10.01.1983 and therefore, G.O.Ms.No.996, will not be applicable to the petitioner.

5.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

6.The issue involved in this writ petition is also covered by the decision of this Court, dated 25.03.2014, made in W.P.Nos.12477 and 12478 of 2007 in the case of **G.Sivaraman and Another v. Government of Tamil Nadu, rep. by its Secretary to Government, Revenue Department, Fort St. George, Chennai - 9 and others**, wherein it has been held as follows:

"2.The fact that the petitioners in both the writ petitions were recruited through employment exchange under General Rule 10(a)(i) for temporary service on consolidated basis is not denied. If that is so, they are covered under G.O.Ms.No.996 dated 22.09.1984 in and under which their services shall be regularised in the same category with effect from 25.06.1984, where as the respondents regularised the services of the petitioners during 1990. At this juncture, it is sought to be argued by the learned counsel for the petitioners that the petitioners are entitled to be regularised after completion of five years as per circular No.73 dated 18.01.1980, whereas, the G.O. does not contain one such clause for being eligible for regularisation. The two conditions imposed in G.O.Ms.No.996 dated 22.9.1984 are (i)the recruitment of the petitioners shall be made through employment exchange under General Rule 10(a)(i);



and (ii) they are in temporary service as on 25.6.1984. Both the conditions, having been satisfied insofar as the petitioners are concerned, the petitioners are entitled to get the benefit under G.O. and their services are to be regularised with effect from 25.06.1984 and any order denying the same is arbitrary and contrary to the law and cannot be allowed to sustain.

3. In the result, both the writ petitions are ordered, by directing the respondents to regularise the services of the petitioners with effect from 25.06.1984 with all consequential benefits. ..."

7. In my considered opinion, since the similar issue has been decided by this Court in W.P.Nos.12477 and 12478 of 2007, the matter is liable to be remitted to the respondents and accordingly, the letter of the 1st respondent, dated 31.03.2006, proceedings of the 2nd respondent, dated 07.11.2008 and the proceedings of the 3rd respondent dated 27.11.2008, are quashed and the matter is remitted back to the respondents and the respondents are directed to pass fresh orders in the light of the order of this Court passed in W.P.Nos.12477 and 12478 of 2007 in the case of **G.Sivaraman and Another v. Government of Tamil Nadu, rep. by its Secretary to Government, Revenue Department, Fort St. George, Chennai - 9 and others**, within a period of eight weeks from the date of receipt of a copy of this order.

8. The writ petition is disposed of on the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

smn

To

1. The Secretary to Government,
Revenue Department,
Government of Tamil Nadu,
St. George Fort, Chennai - 9.
2. The Commissioner / Director of Survey and Settlement,
Chepauk, Chennai - 5.
3. The Assistant Director of Survey and Settlement,
Madurai.

ORDER MADE IN

W.P (MD) No.12221 of 2011

13.12.2019

SMA/10/01/2020/4P/4C

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