



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.06.2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P[MD]No.9094 of 2014

and

M.P.[MD]No.1 of 2014

M.Saroja

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Rural Development and Panchayat Raj Department,
Fort St. George, Secretariat,
Chennai - 600 009.

2.The Director of Rural Development,
Panagal Building,
Saidapet, Chennai.

3.The District Collector,
Ramanathapuram District,
Ramanathapuram.

4.The Commissioner,
Thiruvadanai Panchayat Union,
Thiruvadanai,
Ramanathapuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of the first respondent in G.O.(D)No.171 dated 28.03.2012, quash the same and consequently direct the respondents to regularise the appointment of the petitioner's husband made on 03.01.1992 in the permanent vacancy with all consequential service, pensionary and monetary benefits, family pension.

For Petitioner : Mr.M.Siddharthan

For Respondents : Mr.D.Muruganantham

Additional Government Pleader

O R D E R

The order of regularisation granted in favour of the husband of the writ petitioner with effect from 06.01.2002 in G.O.Ms.No.171 dated 28.03.2012, is sought to be quashed. Further direction is sought for to regularise the appointment of the writ petitioners's husband with effect from 03.01.1992.

2.The writ petitioner is the wife of the deceased employee and the husband of the writ petitioner late Mr.S.Mahalingam, was employed as Office Assistant in the office of the Commissioner,



Thiruvadanai Panchayat Union. The initial appointment of the writ petitioner was on temporary basis and the appointment order issued on 03.01.1992 states that the husband of the writ petitioner was appointed on temporary basis. The appointment was not made in accordance with the recruitment rules in force, by issuing a recruitment notification and by providing opportunity to all the eligible candidates. However, the case of the writ petitioner was considered subsequently by the Government and accordingly, G.O.Ms.No.171 dated 28.03.2012 was issued granting the benefit of regularisation with effect from 06.01.2002.

3.The Government, based on the policy to regularise the services of the temporary employees on completion of 10 years of service considered the case of deceased husband of the petitioner and granted regularisation with effect from 06.01.2002. Learned Counsel for the writ petitioner states that the services of the husband of the writ petitioner is to be regularised with effect from the date of appointment made during the year 1992.

4.This Court is of the considered opinion that the benefit of regularisation as well as the permanent absorption cannot be granted in violation of the Recruitment Rules in force. The initial appointment of the husband of the writ petitioner is irregular. Thus, the benefit of regularisation already granted by the Government in G.O.Ms.No.171 dated 28.03.2012 itself was a concession extended by the Government. Once the concession was granted in respect of these temporary employees and the benefit of regularisation was granted on completion of 10 years of service, the writ petitioner cannot seek any further concession seeking retrospective regularisation for the purpose of getting additional monetary benefits.

5.For all purposes, the husband of the petitioner was treated as a regular employee with effect from 06.01.2002 and the terminal and monetary benefits were also disbursed. However, Rule 11 of the Tamil Nadu Pension Rules, 1978 stipulates that 50% of the temporary services can be reckoned for the purpose of counting pensionary benefits. If the husband of the writ petitioner is otherwise eligible for grant of 50% services with reference to Rule 11(4), then the case of the writ petitioner is to be considered for grant of 50% counting of the services and accordingly, revise the pension and pensionary benefits by strictly following the terms and conditions in Rule 11(4). The said exercise shall be done as expeditiously as possible and the writ petitioner shall submit a fresh representation for the purpose of claiming 50% of the services for grant of pensionary benefits.



6. With these directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Principal Secretary,
Government of Tamil Nadu,
Rural Development and Panchayat Raj Department,
Fort St. George, Secretariat,
Chennai - 600 009.

2. The Director of Rural Development,
Panagal Building,
Saidapet, Chennai.

3. The District Collector,
Ramanathapuram District,
Ramanathapuram.

4. The Commissioner,
Thiruvadanai Panchayat Union,
Thiruvadanai,
Ramanathapuram District.

+One cc to The Special Government Pleader, SR.No.72159
+One cc to M/s.P.Kalaiyarasi Bharathi, Advocate, SR.No.71944

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RL/19.07.2019/3P/7C