

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 21.08.2019

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

WEB COPY

W.P. (MD) No.7531 of 2014**and****M.P. (MD) .No.2 of 2014**

1.C.Arunachalam
2.S.Arumugham
3.Susila

... Petitioners

Vs.

1.The State of Tamil Nadu
rep by its Secretary to Government,
School Education Department,
Secretariat,
For St. George,
Chennai-600 009.

2.The Director of Govt. Examination,
College Road,
Chennai-600 006.

3.The Joint Director (Personnel)
Directorate of Govt. Examinations,
College Road,
Chennai-600 006.

4.The Regional Deputy Director of
Govt. Examinations,
Madurai.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 3rd respondent in his proceedings Na.Ka.No.204704/E3-1/2013 dated 23.09.2013 and quash the same and further direct the respondents to absorb the first petitioner as Section Writer and to regularize his services with effect from the date of initial appointments with all service and other monetary benefits as was given to other persons who were found eligible and accommodated from the seniority list maintained by the department as well as directing the respondents to regularize the service of the 2nd and 3rd writ petitioners (S.Arumugham & Susila) initially from the date of their initial appointment and to the date of their reaching the date of superannuation (ie)12.06.2011 and 02.04.2014, and further to disperse all service and other monetary benefits on par with other persons who were accommodated from the seniority list maintained by the respondents.



For Petitioners : Mr.A.Thirumurthy
for M/s.Victory Associate

For Respondents : Mrs.S.Srimathi
Special Government Pleader

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ORDER

The order of rejection dated 23.09.2013 rejecting the claim of the writ petitioner for regularization and permanent absorption is under challenge in the present writ petition.

2.The writ petitioners were appointed as Section Writers in the office of the Regional Deputy Director of Government Examination at Madurai, on 06.02.1986, 07.02.1986 and 06.02.1986 respectively, on consolidated pay salary. Based on Section Writer was created by the Government in G.O.Ms.No.156, Educational Science and Technology Department, dated 07.03.1994.

3.The learned counsel appearing on behalf of the writ petitioners made a submission that though the writ petitioners were engaged as consolidated pay salary employees, they are allowed to serve for a considerable length of time an other similarly placed employees, who were appointed as Section Writers were granted with the benefit of regularization and permanent absorption. The time scale of pay was also paid pursuant to the orders of the Tamil Nadu Administrative Tribunal. Thus, all other similarly placed persons were granted with benefit of regularization in the sanctioned post in the time scale of pay. Thus, the writ petitioners are also entitled to get the same benefit.

4.The learned Special Government Pleader appearing on behalf of the respondents opposed the contention by stating that the initial appointment of the writ petitioners were not in accordance with the recruitment Rules in force and they were appointed as Section Writer on consolidated pay salary and they were utilized for the purpose of completing the certain projects in the Government examinations for preparation of marks statement and therefore, it is a temporary assignment and accordingly, these temporary employees cannot seek regularization or permanent absorption in violation of the Recruitment Rules in force.

5.The learned counsel for the writ petitioners states that out of 200 persons engaged on temporary basis, 163 persons were already absorbed as regular employees in the cadre of regular qualification in the time scale of pay. Thus, the case of the writ petitioners are also to be considered.

6.It is pertinent to point out that the first writ petitioner himself was aged about 57 years at the time of filing of the writ petition and now, he would be around 62 years. The other writ petitioners are also over-aged and reached the age of



superannuation. Under these circumstances, the benefit of regularization or permanent absorption cannot be granted as none of the writ petitioners are eligible to continue in services.

7. The learned Special Government Pleader made a submission that the writ petitioners were ousted from services in the year 1995. This apart, the regularization in the post of Record Clerk was given, upto serial No.163 and the writ petitioners are placed after the serial No.163 and therefore, they did not get the opportunity for absorption in the post of Record Clerk.

8. May that it be, this Court is of the opinion that the absorption in the post of regular qualification was given in accordance with the seniority and the writ petitioners admittedly had not reached the seniority for the purpose of regular absorption in the post of Record clerk.

9. This apart, the writ petitioners were already ousted from services in the year 1995 itself. This being the factum, the benefit of regularization or permanent absorption now at this length of time cannot be granted to the writ petitioners, as they have also crossed the retirement age of 58 and for the benefit of monitory benefits, the absorption cannot be granted. Under these circumstances, the writ petitioner have not established any acceptable grounds for the purpose of granting the relief as such sought for in the present writ petition.

10. With these observations, this Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD-II)

/TRUE COPY/

Sub Assistant Registrar

To

1. The Secretary to Government,
State of Tamil Nadu
School Education Department,
Secretariat,
For St. George,
Chennai-600 009.

2. The Director of Govt. Examination,
College Road,
Chennai-600 006.



3.The Joint Director (Personnel)
Directorate of Govt. Examinations,
College Road,
Chennai-600 006.

4.The Regional Deputy Director of
Govt. Examinations,
Madurai.

+1 CC to M/s.A. THIRU MURTHI, Advocate (SR-82630[F] dated
21/08/2019)

+1 CC to M/s.SPL GP (SR-83157[F] dated 22/08/2019)

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and
M.P. (MD) .No.2 of 2014
21.08.2019

ns

JM/12.09.2019/4P/7C