

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.34480 of 2016

ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring the action of respondents in not regularizing the services of petitioner in view of the judgment in W.P.No.20954 of 1999, dated 12.12.2000, as arbitrary, illegal, unconstitutional and violative of the orders passed by this Court and sought a consequential direction directing the respondents to regularize the services of petitioner from the date of her eligibility as per the orders of this Court in W.P.No.20954 of 1999, dated 12.12.2000 with all consequential benefits.

2. Heard learned counsel for the parties.

3. It has been contended by the petitioner that initially she was appointed as a Clerk-cum-Typist with respondent No.5 on 05.10.1989 and since then she has been discharging her duties to the satisfaction of her superiors and everyone concerned. Petitioner further submits that respondent No.5 had absorbed her into aided post and submitted proposals to the competent authority for approving the appointment of petitioner in aided post, but the respondents have rejected the proposal submitted by respondent No.5 vide proceedings dated 30.11.1998. Thereafter, the petitioner has filed W.P.No.20954 of 1999 challenging the said rejection orders dated 30.11.1998. This Court, after hearing the case elaborately, allowed the said writ petition vide orders dated 12.12.2000, directing the respondents to regularize the services of

petitioner and further observed that the petitioner is entitled to claim seniority and other attendant benefits like terminal/pensionary benefits. Aggrieved by the orders passed by the learned Single Judge, respondents have carried the matter in appeal by filing W.A.No.60 of 2004 and the Hon'ble Division Bench dismissed the Writ Appeal for non-prosecution vide orders dated 06.09.2011. Thereafter, respondent No.5 has submitted fresh proposal on 06.06.2016 to the competent authority for approving the appointment of petitioner in aided post, but so far, the respondents have not passed any orders on the said proposal submitted by respondent No.5. Counsel for petitioner has contended that in this writ petition, the respondents have filed counter reiterating the very same objections taken by them at the time of hearing W.P.No.20954 of 1999 and this Court had considered all those objections and contentions raised by the respondents and allowed the writ petition vide orders dated 12.12.2000 and the same was confirmed by the Division Bench by dismissing the Writ Appeal filed by respondent No.5 for non-prosecution. Therefore, the respondents are bound to consider the case of the petitioner strictly in terms of the order dated 12.12.2000 in W.P.No.20954 of 1999. Therefore, counsel for petitioner contend that appropriate orders be passed in the writ petition directing the respondents to regularize the services of petitioner strictly in terms of the observations made by this Court in W.P.No.20954 of 1999, dated 12.12.2000 with all consequential benefits.

4. The learned Government Pleader appearing for respondents contended that the respondents are relying on the fact that the petitioner

was not properly selected at the time of initial appointment with respondent No.5, and since the petitioner was not selected as per the Rules, case of the petitioner cannot be considered. Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

5. This Court, having considered the rival submissions made by the parties, is of the considered view that when similar contentions as has been raised in this writ petition, were raised by the respondents earlier in W.P.No.20954 of 1999, this Court allowed the said writ petition vide orders dated 12.12.2000 and directed the respondents to consider the case of the petitioner for regularization of service with all consequential benefits such as seniority and other attendant benefits. When such findings of this Court are confirmed in the order dated 06.09.2011 passed in W.A.No.60 of 2004, the respondents are bound to consider the case of the petitioner for regularization of service strictly in terms of the orders passed by this Court in W.P.No.20954 of 1999, dated 12.12.2000 and pass appropriate orders with all consequential benefits within a period of Eight weeks from the date of receipt of a copy of this order.

6. With the above directions, the writ petition is disposed of.
No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

22nd October, 2019

ajr