IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 14.07.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 17212 OF 2013
AND
W.M.P. NOS. 3293 & 3294 OF 2017

1. C.P.Kalaichelvan
2. M.Rajendran
3. K.Manoharan
4. N.Jesudoss Johnson
5. P.Appuchamy
6. S.Selvaraj
7. R.Thangavel
8. U.K.Subramanian
9. J.Dharmaraj
10. K.Nagaraj
11. P.Periannan ..Petitioners

- Vs -

1. The Government of Tamil Nadu rep. By the Secretary to Govt. Commercial Taxes & Registration Dept., Fort St. George Chennai 600 009.

2. The Principal Secretary/Commissioner Commercial Taxes Department Chennai 600 005.

3. The Joint Commissioner of Commercial Taxes, Coimbatore Circle, Coimbatore 641 018. ..Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus to call for the records relating to the impugned order of the 1st respondent in G.O. (2D) No.178, Commercial Taxes & Registration Department dated 28.9.12 and quash the same insofar as regularisation of the services of petitioners 2 to 11 from the date of issue of the said order and denial of regularisation of the services of the 1st petitioner are concerned and direct the respondents to regularize the petitioners' services in the post of Office Assistant with effect from the dates of their initial appointment in the said posts as set out in the impugned order with monetary benefits from the said dates and grant the all consequential benefits.

For Petitioners : Mr. P.Rajendran

For Respondents : Mr. A.V.Jayaprathap, GA

ORDER

It is the case of the petitioners that were appointed on various dates as Office Assistants. The services of the petitioners were not regularised on the ground that rules need to be relaxed by the Government. Due to the said reason, several service benefits were denied to the petitioner like periodical annual increments, pay commission arrears, etc. The Government issued order regularizing the services of the petitioners 2 to 11 with effect from the date of issuance of the order, viz., 28.9.12. The said Government Order also reveals that the 1st petitioner having retired from service prior to the issuance of the said order, the question of regularising his service does not arise.

2. It is averred by the petitioners that the non-regularisation of the 1st petitioner deprives him of service benefits like pension, etc., and the regularisation of the other petitioners only from 28.9.12 deprives them of many service benefits. It is the further case of the petitioners that similarly placed persons, whose services were regularized belatedly with effect from the date of issuance of the Government Order, filed writ petition in W.P. No10034 to 10038 of 2012 and this Court allowed the said writ petitions against which writ appeal in W.A. Nos.871 to 879/14 were filed. The Division Bench of this Court, vide order dated 18.7.18, dismissed the writ appeals confirming the order passed by the learned single Judge. Against the said order, Special Leave Petition was filed before the Hon'ble Supreme Court. It is further submitted by the petitioners that pending the Special Leave Petition, the services of the petitioners therein were regularised from the date of their initial appoint, however, subject to the outcome of the Special Leave Petition. Since the said benefit has not been conferred on the petitioners herein, the present petition has been filed.

3. When the matter is taken up for hearing, learned counsel appearing for the petitioners submitted that since the petitioners herein are also similarly placed, this Court may direct the respondents to extend the benefit of the order in the above writ appeal to the petitioners herein, which may be subject to the outcome of the Special Leave Petition.

4. On the above contention this Court heard the learned Government Advocate appearing for the respondents.

5. The facts in issue are not in dispute. So also the order of the learned single Judge, which has been affirmed in the appeal against which SLP has been filed and the same is pending. In such circumstances, this Court is of the considered view that the benefit, as has been granted to the petitioners in W.P. Nos.10034 to 10038/12 could be extended to the petitioners herein as well.

6. In such circumstances, this Court, without going into the merits of the issue, directs the respondents to grant similar relief as has been granted to the petitioners in W.P. Nos.10034 to 10038/12, which has been affirmed in W.A. Nos.871 to 879/14, which benefit would be subject to the outcome of the Special Leave Petition pending before the Hon'ble Supreme Court. The respondents are directed to implement this order and grant all the benefits to the petitioner within a period of six months from the date of receipt of a copy of this order.

7. This writ petition is disposed of with the aforesaid observations and directions. Consequently, connected miscellaneous petitions are closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

GLN

To

1. The Secretary to Govt.
   Commercial Taxes & Registration Dept.
   Government of Tamil Nadu
   Fort St. George, Chennai 600 009.

2. The Principal Secretary/Commissioner
   Commercial Taxes Department
   Chennai 600 005.

3. The Joint Commissioner of
   Commercial Taxes, Coimbatore
   Circle, Coimbatore 641 018.

+1cc to Special Government Pleader, S.R.No.24692

W.P. NO. 17212 OF 2013

VD(CO)
KKV/07/08/2020