

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2020

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

W.P.NO.27972 OF 2012

R.Palanisamy

... Petitioner

Vs.

1.The Government of Tamil Nadu
Rep. by the Secretary to the Government
Animal Husbandry, Dairying & Fisheries Department
Fort St. George,
Chennai - 600 009.

2.The Director of Animal Husbandry
Chennai - 600 006. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the first respondent to modify the orders issued in G.O.Ms.No.117, Animal Husbandry Department, dated 28.08.2008 regularising the petitioner's services in the post of Animal Husbandry Assistant with effect from 28.08.2008 and regularise the petitioner's services in the said post with effect from 01.04.1999 with all attendant benefits.

For Petitioner : Mr.P.Mohanraj
For Respondents: Mr.P.Chinnadurai
Additional Government Pleader

O R D E R

The petitioner was appointed on daily wages basis through employment exchange on 11.05.1985 as Assistant. Thereafter, the Government of Tamil Nadu, in Letter No.22059 AH6/97-14 dated 04.02.1995 permitted the second respondent Director of Animal Husbandry, Chennai to fill up 67 sanctioned posts of Animal Husbandry Assistants with the daily rated employees who had completed ten years of service as on 31.12.1997. Though the petitioner was appointed in the year 1985, he completed ten years of service only in 1999. However, by way of G.O.Ms.No.117, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 28.08.2008, his services were regularised with effect from the date of the said Government Order viz., on 28.08.2008.

2. In a similar circumstance, a similarly placed person has approached this Court for absorption from the date of regularisation and not from the date of the Government Order. A Division Bench of this Court in W.A.No.1263 of 2012 dated 20.11.2014 has passed the following orders:

"4.The learned Government Advocate for the respondents submits that an identical issue came up for consideration before this Court in W.A.No.93 of 2012, wherein this Court, by order dated 15.09.2014, has held as follows:

"The contention of the appellant in this writ appeal is that as per G.O.Ms.No.1046, Education Department, dated 11.11.1993 for absorption of temporary casual labourers, there must be vacancies and if vacancies are available, the persons serving on temporary basis should be regularised by relaxing of Rules and insofar as the respondents are concerned, the vacancy arose as per annexure enclosed along with the Government Order, namely, G.O.Ms.No.345, Higher Education Department, dated 30.9.2003 and the order of the learned Single Judge giving direction to give regularization with monetary benefits from the date of appointment may not be proper as it is in violation of the terms and conditions mentioned in G.O.Ms.No.1046, Education Department, dated 11.11.1993.

4.The learned counsel appearing for the respondents fairly submitted that in the light of the Government Order dated 11.11.1993, the respondents will accept the monetary benefits from the date of absorption in regular vacancies as mentioned in the annexure to the G.O.Ms.No.345, Higher Education Department, dated 30.9.2003 and the order restricting the monetary benefits from 30.9.2003 is not proper.

5.The said submission made by the learned counsel for the respondents is recorded and the order of the

learned Single Judge is modified to the effect that the regularization and absorption of the respondents with monetary benefits shall be from the date of regular absorption in vacant post against each of the respondents, as stated in the annexure to the Government Order dated 30.9.2003. The learned counsel for the respondents further submits that the respondents were paid benefits arising out of regularization from 30.9.2003 and the monetary benefits payable from the earlier dates should be directed to be paid from the date of regular absorption that was on and from the date of vacancy arises in respect of each of the respondents.

6. The learned Special Government Pleader for the appellants submits that six weeks time may be given to the appellants to calculate the arrears of salary payable from the date of regularization till 30.9.2003.

7. Hence, the writ appeal is partly allowed by modifying the order of the learned Single Judge with a direction to the appellants to calculate and pay the monetary benefits from the date of regularization and arrears of salary and other benefits payable from the respective date of regularization till 30.9.2003 to each of the respondents referred to in G.O.Ms.No.345, Higher Education Department, dated 30.9.2003, which shall be paid within a period of eight weeks from the date of receipt of a copy of this order. No costs."

5. Since the case on hand is covered by the decision of this Court referred to above, following the same, the writ appeal is disposed of by directing the respondents to regularize the service of the appellant and to calculate

and pay the monetary benefits from the date of vacancy i.e., from 01.04.1999 and arrears of salary and other benefits payable from the date of 01.04.1999 till 28.08.2008 to the appellant referred to in G.O.Ms.No.117, Animal Husbandry, Dairying and Fisheries Department, dated 28.08.2008, which shall be paid within a period of eight weeks from the date of receipt of a copy of this order. "

3. The appellant therein is junior to the writ petitioner herein. In compliance with the judgment passed by the Division Bench of this Court, the first respondent Government, vide G.O.Ms.No.50, Animal Husbandry, Dairying and Fisheries Department, dated 11.04.2019 had absorbed the said individual from the date of regularisation in relaxation of rules. The petitioner herein seeks extension of the same benefit, as accorded to his junior, to him also.

4. In the considered opinion of this Court, the petitioner is also entitled to the same benefits as given to his junior vide G.O.Ms.No.50, Animal Husbandry, Dairying and Fisheries Department, dated 11.04.2019. Accordingly, the respondents are directed to regularise the services of the petitioner from 01.04.1999 and calculate and pay monetary benefits payable from 01.04.1999 till the date it is due, within a period of twelve weeks from the date of receipt of a copy of this order.

5. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to the Government
Government of Tamil Nadu
Animal Husbandry, Dairying & Fisheries Department
Fort St. George, Chennai - 600 009.

2.The Director of Animal Husbandry, Chennai - 600 006.

+1 cc to Mr.P.Rajendran, Advocate,sr.15455

sks(co)
krd 7/10

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