

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.03.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.3658 & 6168 of 2021

A.Saraswathy	... Petitioner in W.P.No.3658 of 2021
D.Selvi	... Petitioner in W.P.No.6168 of 2021

Vs.

1. The Secretary to Government,
Home Department,
Fort St. George,
Chennai 600 009.
2. The Director General of Police/
Director General of Prisons and
Correctional Services,
Tamil Nadu Prisons and Correctional
Services Department,
Whannels Road, Egmore,
Chennai 600 008. ... Respondents in both W.Ps.

W.P.No.3658 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 2nd Respondent herein in his proceedings No.36261/Edapul.4/2020, dated 24.11.2020 and quash the same and consequently direct the Respondents herein to regularize the service of the Petitioner as Grade II Female Warder from the date of her original appointment, in the light of the orders passed by this Court in W.P.Nos.8269 and 42719 of 2006, dated 07.03.2008 and confirmed by a Division Bench of this Court in W.A.Nos.179 & 180 of 2009, dated 26.04.2010 and also confirmed by the Supreme Court in S.L.P.Nos.6328 & 6329 of 2011, dated 15.04.2011, together with all consequential service and monetary benefits, within a time frame.

W.P.No.6168 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, directing the Respondents herein to regularize the services of the Petitioner as Grade II Female Warder from the date of her original appointment, in the light of the orders passed by the Division Bench of this Court in W.A.Nos.179 & 180 of 2009, dated 26.04.2010 and also confirmed by the Supreme Court in S.L.P.Nos.6328 & 6329 of 2011, dated 15.04.2011,

together with all consequential service and monetary benefits, within a time frame.

For Petitioner in
both W.Ps.

:M/s.G.Bala and Daisy

For Respondents in
W.P. 3658/2021

:Mr.P.V.Selvakumar,
Additional Government Pleader

For Respondents in
W.P. 6168/2021

:Mr.P. Karthikeyan,
Additional Government Pleader

COMMON ORDER

As the issue involved in both Writ Petitions is one and the same, cases are taken up for disposal by a common order.

2. When the matter is taken up for hearing, learned counsel for the Petitioners submitted that, the issue in the case on hand is squarely covered by a common order dated 28.07.2017 passed by this Court in W.P.Nos.18681 and 18685 of 2014. For better appreciation, relevant portion of the said order, is extracted hereunder:

"8. Be that as it may, as on date, the petitioner's service had been regularized though not from the date of their initial appointment. It is also the case of the Respondents that the posts in which now the petitioners are accommodated did not exist in the year when they were originally appointed. Anyway, that cannot be a point put against the petitioners. Since the Government itself had chosen to employ the persons as Female Escort Warders for the purpose of carrying out the duties attached to the Warder. In the said circumstances, the services rendered by the Petitioners from the date of their initial appointment cannot be completely ignored. In the above circumstances, this Court after perusing all the orders passed by this Court by single Judges and by the Division Benches is of the view that the present Petitioners are also entitled to the relief viz., regularization with effect from the date of original appointment with continuity of service. Of course, the pay scale for the period has to be taken into account notionally and it is made clear that the petitioners are not entitled to any arrears of pay for the said period. The said period from the date of initial appointment shall

be counted for all purposes except for arrears. In the said circumstances, this Court sets aside the impugned orders rejecting the claims of the petitioners seeking regularization from the date of initial appointment."

3. Heard the learned counsel on either side and perused the material documents available on record.

4. Taking note of the submissions of the learned counsel on either side and in view of the ratio laid down by this Court in the order dated 28.07.2017 passed in W.P.Nos.18681 and 18685 of 2014 (supra) and also in the light of the order dated 26.04.2010 passed by the Division Bench of this Court in W.A.Nos.179 & 180 of 2009, as confirmed by the Apex Court vide order dated 15.04.2011 in S.L.P.Nos.6328 & 6329 of 2011, this Court directs the Respondents herein to regularize the services of the Petitioners from the date of their original appointment, together with all consequential service and monetary benefits, within a period of four months from the date of receipt of a copy of this order.

In fine, Writ Petitions are ordered accordingly. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

(aeb)
To:

1. The Secretary to Government,
Home Department,
Fort St. George,
Chennai 600 009.
2. The Director General of Police/
Director General of Prisons and
Correctional Services,
Tamil Nadu Prisons and Correctional Services Department,
Whannels Road, Egmore,
Chennai 600 008.

+4 ccs to M/s.G.Bala & Daisy, Advocate, SR.NO.17215,17216
+1 cc to Government Pleader, SR.NO.17316,18001

Common order in
W.P.Nos.3658 & 6168 of 2021

SKY(CO)
NS(04/05/2021)