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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2021

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THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. No. 2266 of 2012

A.Vasuki

... Petitioner

-vs-

1. The State of Tamil Nadu,
Represented by Secretary,
Home Department,
Fort St.George,
Chennai.
2. The Inspector General of Prisons,
C.M.D.A. Towar II,
No.1, Gandhi Irwin Road,
Chennai.
3. The Superintendent,
Central Prison,
Coimbatore.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the respondents to regularize the services of the petitioner as Escort Women Warder.

(Prayer amended as per Court order dated 06.02.2012 by KCJ in M.P. No. 1 of 2012 in W.P. No. 2266 of 2012)

For Petitioner : Mr.K.M.Ramesh
for Mr.K.Vasudevan

For Respondents : Ms.K.Bhuvaneswari
Additional Govt. Pleader

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondents to regularize the services of the petitioner as Escort Women Warder.

2. The petitioner was initially working as temporary Escort Female Warder and thereafter, by issuance of G.O.Ms.No.629, Home (Prison-II) Department, dated 22.08.2012, she was appointed as Grade-II Warder in Prison Department with immediate effect by relaxing rules 2(e), 4(a) and 6 of Tamil Nadu Jail Subordinate Service Rules. Accordingly, pay has also



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been fixed for the period she worked as temporary Female Escort Warder in the light of the Government Order in G.O.Ms.No.719, Home (Prison-II) Department, dated 28.06.2009, as such, the petitioner worked as Grade-II Warder in Prison Department, Special Sub Jail, Salem.

3. However, prior to the said development, that the petitioner was working as temporary Female Escort Warder, she made a request to the respondents to regularize her service as Female Escort Warder from the date of her initial appointment or engagement and even though, subsequently, she has been permanently appointed on regular basis as Grade-II Warder in Prison Department, the erstwhile service has not been regularized. Therefore, in this regard, the petitioner still has got a grievance that, the erstwhile service as temporary Female Escort Warder has to be regularized from initial date and correspondingly, pay and other attendant benefits shall be calculated and be paid to her, for that grievance only, the learned counsel for the petitioner projected this case on behalf of the petitioner.

4. Ms.K.Bhuvaneswari. learned Additional Government Pleader appearing for the respondents, on the other hand, has relied upon the following averments made in the counter affidavit, which reads thus:

"11) Based on the aforesaid Court orders and the proposals of second respondent, Government have ordered in G.O.Ms.No.629, Home (Prison-II) Department, dated 22.08.2012 to appoint Tmt.A.Vasuki, formerly Female Escort Warder as Grade-II Warder in Prison Department with immediate effect, by relaxing rules 2(e), 4(a) and 6 of Tamil Nadu Jail Subordinate Service Rules in favour of her (relating to reservation of appointment, age and physical qualification) and to fix minimum pay for the period she had worked as temporary Female Escort Warder in the light of the Government Orders G.O.Ms.No.719, Home (Prison-II) Department, dated 28.06.2009 and G.O.Ms.No.187, Home (Prison-II) Department, dated 14.03.2011. The petitioner is now working as Grade -II Warder in Prison Department at Special Sub Jail, Salem with effect from 11.09.2012 as per the proceedings No.10414/Sub Jail.1/2012, dated 11.09.2012 of the Superintendent of Prisons, Central Prison, Salem.

12) Further, it is humbly submitted that, prayer of the petitioner in this Writ Petition was already complied with as per



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directions of the Hon'ble Court in W.P. No. 16322 of 2012, dated 27.06.2012. Moreover, a consolidated proposal for regularization of the service of the temporary Female Escort Warders were sent to Government and it is under consideration of the Government and the petitioner is one among the person in the proposal."

5. By relying upon these averments, especially the averment made in paragraph No.12 of the counter affidavit as quoted above, the learned Additional Government Pleader would submit that, the issue with regard to the regularization of the service of the petitioner as temporary Female Escort Warder has already been sent to the Government along with the similarly placed persons. Therefore, once the Government passed an order regularizing the past service of the petitioner as temporary Female Escort Warder, certainly, whatever the pay and attendant benefits claimed by the petitioner in this regard would be considered and accordingly extended to her.

6. I have considered the position as projected by the learned counsel appearing for both sides, where the first grievance that the petitioner has to get a regular job, has been met by issuance of G.O.Ms.No.629, Home (Prison-II) Department, dated 22.08.2012, pursuant to which, she has been permanently appointed as Grade-II Warder in Prison Department with immediate effect. However, insofar as the further grievance of the petitioner to regularize the earlier temporary service as temporary Female Escort, it is pending before the Government for regularization order, for which proposal has already been sent by the Department. Therefore, this Court feels that, the pending proposal before the State Government can immediately be considered and within reasonable time orders can be passed. Based on the said orders to be passed by the Government, necessary action can be taken by the department to benefit the petitioner.

7. In that view of the matter, this Court is inclined to dispose of the Writ Petition with the following orders:

"(i) That the respondents especially the first respondent is hereby directed to consider and pass orders on the proposal already been sent by the Department with regard to the petitioner and similarly placed persons who were the erstwhile temporary Female Escort Warders to regularize their service from the initial appointment and such order shall be passed as early as possible preferably within a period of three months from the date of receipt of a copy of this order by the first respondent.



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(ii) Once such orders are passed by the first respondent and the same is intimated to the second and third respondents, they shall act upon with regard to the consequential action and thereby, whatever the other benefits that can be conferred on the petitioner, may be calculated and be conferred within a period of two months thereafter."

8. With these directions, this Writ Petition is disposed of. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vji

To

1. The Secretary,
The State of Tamil Nadu,
Home Department,
Fort St.George,
Chennai.
2. The Inspector General of Prisons,
C.M.D.A. Towar II,
No.1, Gandhi Irwin Road,
Chennai.
3. The Superintendent,
Central Prison,
Coimbatore.

+1CC to Mr.K.M.Ramesh, Advocate, Sr.No.11836

W.P. No. 2266 of 2012

PMK (CO)
K.RK. (26.07.2021)