

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2021

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

Writ Petition No.4332 of 2012

S.Koteeswari

...Petitioner

-Vs-

- 1.The Government of Tamil Nadu
rep.by the Secretary to Government
Revenue Department, Secretariat
Fort St.George, Chennai 600 009.
 - 2.The District Collector, Vellore District
Vellore.
 - 3.The Tahsildar, Thiruppathur Taluk
Thiruppathur, Vellore District.
 - 4.The Deputy Tahsildar, Thiruppathur
Thiruppathur, Vellore District.
 - 5.The Assistant Director
Land Survey Records Department
Vellore-9, Vellore District.
 - 6.The District Employment Officer
Vellore District, Vellore.
- ...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents to absorb the petitioner as regular Data Entry Officer with all attendant benefits as per G.O.Ms.No.52, Finance (F.R.II) Department, dated 14.01.1977 and also considering her 10 years length service as Data Entry Officer.

For Petitioner : No appearance

For Respondents : Mr.K.Magesh,
Special Government Pleader

O R D E R

The prayer sought for herein is to direct the respondents to absorb the petitioner as regular Data Entry Officer with all attendant benefits as per G.O.Ms.No.52, Finance (F.R.II) Department, dated 14.01.1977 and also considering her 10 years length service as Data Entry Officer.

2. That the petitioner claimed that she completed higher secondary course in 1996 and also successfully completed Post Graduate Diploma in Computer Applications. She was temporarily appointed as Data Entry Operator (Typist-cum-Computer Operator) in the office of the third respondent as per the orders of the second respondent since 21.01.2000 on consolidated salary of Rs.1,500/- per month and she was continuously working without any break of service till August 2009.

3. In this regard, it is the further claim of the petitioner that, the third respondent also has given a certificate dated 30.06.2004 certifying that, the petitioner had been appointed on temporary basis as Data Entry Operator and preference may be given in the employment on regular basis.

4. According to the petitioner, she was continuously working as Data Entry Operator for ten years or more at the time of filing of the writ petition. Therefore, in this context, though she has given representations to regularize her services the same was not done, and hence she has filed the present writ petition.

5. When the case is called, there is no representation for the petitioner. However, Mr.Magesh, learned Special Government Pleader appearing for the respondents, by relying upon the counter affidavit filed by the respondents, would submit that, the petitioner has never been appointed either temporarily or on permanent basis in any substantive post by the Revenue Department and the petitioner has been engaged only as Data Entry Operator in a contingency work and once the work is over, then and there such kind of contingency workers would get ousted and therefore, it does not confer any right on the petitioner to claim regularisation, where substantive post of typist if it is sanctioned, that shall be filled only through competitive examination and selection by Tamil Nadu Public Service Commission.

6. He would also submit that, G.O.Ms.No.52, Finance Department dated 14.01.1977, which was heavily relied upon by the petitioner, would not apply to the petitioner. In fact, in the said G.O., in Para 4 it is categorically stated that, the category of contingency staff be abolished forthwith and there should be no further recruitment to this category by way of subsequent regularization, as it was one time measure taken only in the year 1977.

7. I have considered the submissions made by the learned Special Government Pleader and also perused the materials placed on record.

8. Insofar as the claim of the petitioner is concerned, whether she will be entitled to get absorption or regularization in the job of Data Entry Operator, where she was temporarily engaged for some time, which the petitioner claims for ten years, this Court is of the view that, if the post where the petitioner was engaged is only a contingency post, where there is no substantive vacancy created, the question of regularization or absorption does not arise. Even if any substantive post is available, the recruitment shall be made only through competitive examination or by calling for applications from all eligible candidates, which is the settled procedure, and therefore, no one can seek the indulgence of this Court to give a direction to the respondents to appoint or regularize the staff, who have been engaged as contingency staff.

9. Moreover, as stated by the learned Special Government Pleader, the G.O.Ms.No.52 referred to above was issued in the year 1977 and as per the import of the Government Order, who were all working as contingency workers as on 01.01.1977 were directed to be considered for regularization and at para 4 of the said Government Order, it has been made clear that, no such regularization shall not be made for subsequent vacancies.

10. When that being so, the post of Data Entry Operator is not a substantive post, for which the petitioner claimed to have been engaged and therefore based on the same, she cannot seek the indulgence of this Court for a Mandamus to direct the respondents to absorb the petitioner as regular Data Entry Officer with all attendant benefits as per G.O.Ms.No.52, Finance (F.R.II) Department, dated 14.01.1977. Moreover, as on date whether the petitioner has been continuously engaged in the said office as Data Entry Operator is also not known.

11. Be that as it may. If at all the petitioner still continues to work as Data Entry Operator on temporary basis, it is for the respondents to take a decision as to whether the petitioner's services are required further on permanent basis and in that case, suitable arrangement can be made by the respondents. In that view of the matter, the prayer as sought for in the writ petition as such cannot be granted. Hence, the writ petition fails and accordingly it is dismissed. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government,
Revenue Department, Secretariat
Fort St.George, Chennai 600 009.

2.The District Collector,
Vellore District,
Vellore.

3.The Tahsildar,
Thiruppathur Taluk,
Thiruppathur, Vellore District.

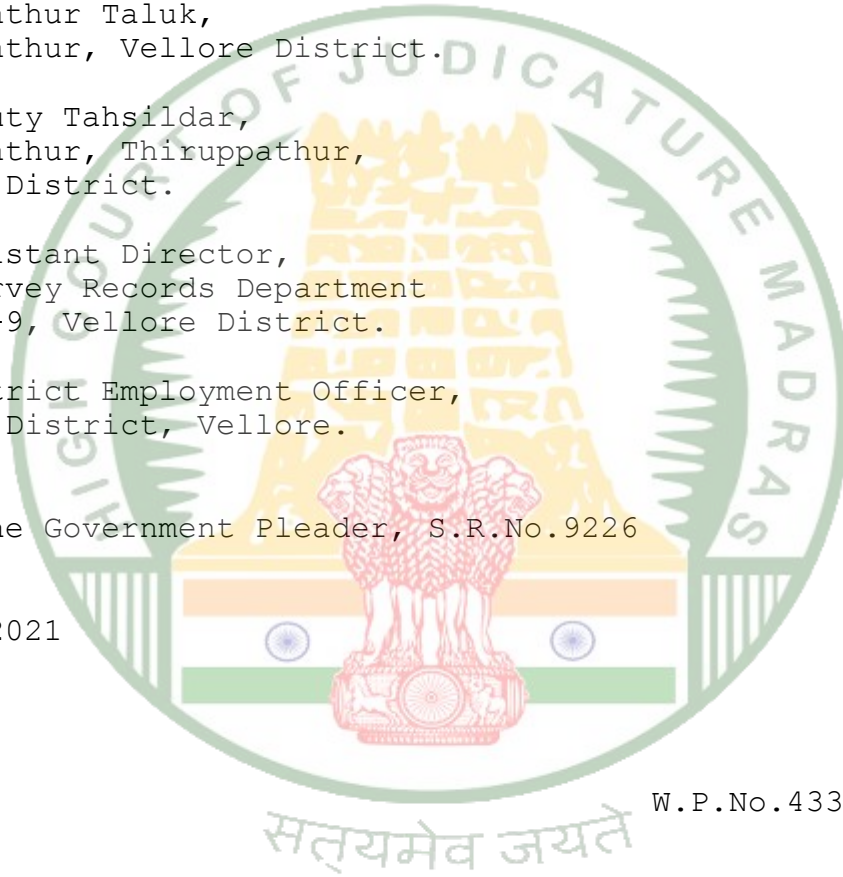
4.The Deputy Tahsildar,
Thiruppathur, Thiruppathur,
Vellore District.

5.The Assistant Director,
Land Survey Records Department
Vellore-9, Vellore District.

6.The District Employment Officer,
Vellore District, Vellore.

+1cc to the Government Pleader, S.R.No.9226

SSN(CO)
SM/08/03/2021



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