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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2021

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

W.A.No.1872 of 2018
and
CMP.No.15003 of 2018

1. Union of India
through Secretary,
Ministry of Social Justice and Empowerment,
Government of India,
New Delhi.
2. National Institute for the Visually Handicapped,
116, Rajpur Road,
District Dehradun,
through its Director
3. National Institute for the Visually Handicapped,
Regional Centre, Rep. by its Regional Director,
Karaiyanchavadi,
Poonamalle,
Chennai

...Appellants

vs.

M.Gopalakrishnan

...Respondent

Prayer: Writ appeal is filed under clause 15 of the Letter Patent praying to set aside the order dated 02.11.2017 made in W.P.No.31810 of 2006.

Prayer in W.P.No.31810 of 2006:

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a certiorarified Mandamus to call for the records pursuant to the Notification made in Employment News dated 24.6.2006 by the 2nd respondent calling for the application from the new candidates for the post of vocational Training and Placement Officer and to quash the same and to direct the respondents to regularize the services of the petitioner herein as Vocational Training and Placement Officer in the office of the 3rd respondent herein.



For Appellants : Mr. V. Chandrasekeran
for 1st appellant
Mr. R. Priyakumar
for 2nd & 3rd appellants

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For Respondent : Mr.B.Vijayakumar

JUDGMENT

(Judgement of the Court was made by S.VAIDYANATHAN, J.)

The present writ appeal has been preferred against the order dated 02.11.2017 in W.P.No.31810 of 2006.

2. According to the appellants, there was an advertisement in the newspaper for one post of Vocational Training and Placement Officer reserved for OBC and that the writ petitioner/respondent herein who is a visually impaired person has been appointed as a 'Braille Shorthand Instructor'. While so, he was asked to perform the additional duties of the Placement Officer, therefore he has been sought to be regularised on the phase of the notification. However, the writ petitioner does not fall under any of the categories earmarked for OBC and that he has not participated in the direct recruitment for the said post to be considered for appointment. The learned counsel for the appellants further submit that in the light of the fact that it is reserved for OBC, the writ petitioner being a Scheduled Caste candidate cannot be asked to be posted in a post as there cannot be any direct recruitment for Scheduled Caste when the post is earmarked for OBC. Hence the learned Single Judge ought not to have directed regularisation of the writ petitioner services as Vocational Training and Placement Officer from the date of his initial appointment with all other benefits. He would further submit that now the writ petitioner/respondent herein has attained the age of superannuation.

3. The learned counsel for the respondent/writ petitioner would contend that he has joined the services in the year 1986 as stated by the appellants herein but he was appointed at Dehradun and thereafter transferred to Chennai in the year 1994. Pursuant to an office order dated 26.08.1994, he was asked to look after the Vocational Training aspects of the centre, apart from the duties of the 'Braille Shorthand Instructor'. The learned Single Judge taking note of the fact that the respondent's herein services have been utilised in both the posts and that the respondent was in service for more than three decades and that he has been discharging work of both the posts namely short hand instructor and the Vocational Training and Placement Officer from the year 1994 has rightly directed the



appellants to regularise the services of the writ petitioner. Hence even though the post has been reserved for OBC the fact that the writ petitioner/respondent herein has been discharging work for nearly three decades shall not be disturbed from the present position was the observation made by the learned Single Judge which need not be interfered with.

4. Heard both parties and perused the materials available on record.

5. The facts that the writ petitioner joined the service in the year 1986 as Braille Shorthand Instructor by the second appellant which organisation is functioning under the control of the first appellant Ministry and transferred from Dehradun to Chennai in the year 1988 and performing work of Shorthand instructor apart from Vocational Training aspect in the centre from 01.09.1994 are not in dispute. From that date onwards he has been discharging the work of both the posts and retired from service. While considering the notification published in the newspaper dated 24.06.2006 the learned Single Judge has observed as follows:-

"8. This Court after having considered the rival submissions of the learned counsel for the parties and perusing the documents and pleadings placed on record, is in full agreement with the contentions put forth by the learned counsel for the petitioner. The petitioner having rendered the services for more than 20 years in the post of Vocational Training and Placement Officer, his services required for the Institute in a larger public interest and for the benefit of the students, who are studying in the Institute. Although this Court is conscious of the fact that as per the notification, the said post is reserved for OBC category, nevertheless this Court has to consider the larger interest of the petitioner vis-a-vis Institute and therefore, hold that the petitioner is entitled to regularisation of his services as Vocational Training and Placement Officer, in view of his long uninterrupted service. According to the petitioner, he is fully qualified for the post, which fact has not been disputed in the counter affidavit. Moreover, by virtue of the admitted fact that the petitioner has been continued for more than 20 years in the same post, even assuming that there is any short coming in the qualification, the same cannot be held against the petitioner. Particularly, the Institute itself has extracted the services of the petitioner in the same post for more than 20 years.



1. The Secretary,
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2. The Director
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District Dehradun.
3. The Regional Director,
National Institute for the Visually Handicapped,
Regional Centre, Karaiyanchavadi,
Poonamalle, Chennai.

+1cc to Mr.B.Vijayakumar, Advocate, S.R.No.50653

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NSK 03/12/2021