



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2021

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THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

W.P.No.38686 of 2015
and W.M.P.No.4605 of 2017

C.Gopalsamy

... Petitioner

Vs.

1. The State of Tamilnadu rep. by its
Secretary to Government,
Tourism, Culture and Religious
Endowments Department,
Secretariat, Chennai - 9.

2. The Secretary / Commissioner (i/c),
Directorate of Art and Culture ,
Tamil Valarchi Valagam,
Egmore, Chennai - 8.

3. The Principal,
Government College of Fine Arts,
Kumbakonam - 612 002,
Tanjore District.

... Respondents

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records connected in Na.Ka.No.1887/B1/2014, dated 09.05.2014 of the second respondent and quash the same and consequently direct the respondents to regularize the petitioner's service in the post of Instructor from the date of initial appointment i.e. from onwards as was given to similarly placed persons in G.O.Ms.No.42, Tourism and Culture (C 1-1) Department, dated 28.03.2007 and Director proceedings No.2100/E1/2008, dated 06.05.2008 and G.O.Ms.No.112, Tourism and Culture (C 1-1) Department dated 03.08.2011.

For Petitioner : Mr.G.Elanchezhiyan

For Respondent : Mr.C.Selvaraj
Nos.1 & 2 Government Advocate (Civil)

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O R D E R

The Writ Petition is directed against an order passed by the second respondent rejecting the request of the petitioner for regularizing the services from the date of his initial appointment.

2. According to the petitioner, he was sponsored through Employment Exchange and was selected through interview conducted by the second respondent and was appointed on 11.01.1991. Though he was appointed as a part time Lecturer, he was discharging duties as regular Lecturer ever since he was appointed. Thereafter, he approached the Tamil Nadu Administrative Tribunal at Chennai for regularizing his service. Pursuant to the orders of the Tribunal in O.A.No.2210 of 2004, dated 01.06.2004, he was regularized in service on 29.06.2007. His services were calculated from the date of his regularization. Therefore, he made a representation on 16.12.2011 for regularizing the service from the date of his initial appointment. It is rejected by the second respondent in Proceedings Na.Ka.No.1887/B1/2014, dated 09.05.2014.

3. From the perusal of the materials, it is seen that the petitioner was appointed to the post of Lecturer (History) being sponsored through Employment Exchange after undergoing regular selection process. For all purposes, he should be considered as regularly appointed Lecturer following the regular method of selection. In that event, his services shall be regularized from the date of his initial appointment. But, his services were calculated only from the date of regularization in the impugned order.

4. It is required to be noted that in the case of one Parimala, who was appointed as a Lecturer in History, vide Government Order in G.O.(Ms) No.112, Tourism and Culture Department, dated 03.08.2011, was regularized subject to the following conditions:-

(1) services are regularised with effect from the date of his initial appointment,

(2) services rendered from the initial appointment till regularisation shall be counted for attendant benefits and break in service shall not be counted for any monetary benefits,

(3) the incumbent is entitled to all monetary benefits from the date of reinstatement,

(4) the reappointment is based on relaxation of condition, and

(5) it will not be a precedent.



5. In that case, the said Lecturer was appointed without being sponsored by Employment Exchange and without having acquired required qualification. When she was terminated from service, after interference of this Court, she was reinstated. Thereafter, her services were regularized from the date of initial appointment pursuant to the orders of this Court. From the above, it is noted that the services of a person, who was not fully qualified to the post and who was not appointed through regular selection method, itself, was regularized from the date of initial appointment. Whereas, in the case of the petitioner, he was sponsored by the Employment Exchange and appointed after undergoing regular selection process. He was regularized in service without any break or suffering any order of removal from service. He continued in service from 1991 till he attained the age of superannuation. Therefore, the service should have been regularized from the date of his initial appointment. Hence, the impugned rejection order passed by the second respondent not regularizing the services of the petitioner from the date of his initial appointment without any valid reasons is not sustainable.

6. Therefore, the second respondent is directed to consider the case of the petitioner for regularization from the date of his initial appointment in the light of G.O.(Ms).No.42, Tourism and Culture Department, dated 28.03.2007 and G.O.(Ms).No.112, Tourism and Culture Department, dated 03.08.2011 and an appropriate order shall be passed within a period of eight (8) weeks from the date of receipt of a copy of this order.

The Writ Petition is disposed of with the above directions. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The State of Tamilnadu rep. by its
Secretary to Government,
Tourism, Culture and Religious
Endowments Department,
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2. The Secretary / Commissioner (i/c),
Directorate of Art and Culture ,
Tamil Valarchi Valagam, Egmore, Chennai - 8.

3. The Principal,
Government College of Fine Arts,
Kumbakonam - 612 002, Tanjore District.

+1CC to Mr.G.Elanchezhiyan, Advocate, Sr.No.35186

+1CC to the Government Pleader, Sr.No.35627

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and W.M.P.No.4605 of 2017

RSV (CO)
K.RK. (01.09.2021)