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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 25.11.2021

CORAM:

THE HON'BLE MR. JUSTICE M.DURAI SWAMY
AND
THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.A.No.2684 of 2021

D.Ravi

...Appellant/Petitioner

Vs.

Sports Development Authority of Tamil Nadu,
Rep by its Member Secretary,
EVR Salai, Chennai - 84.
Present Office address:
No.3, Periamedu,
Nehru Stadium,
Chennai - 600 003.

...Respondent/Respondent

Appeal filed under Clause 15 of the Letters Patent against the order made in W.P.No.24849 of 2019 dated 12.08.2021.

Prayer in W.P.No.24849 of 2019: writ petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorarified Mandamus, calling for the proceedings of the respondent in Na.Ka.No.14484/NA-2/2010 dated 11.02.2014 and to quash the same insofar it denies regularization of service to the petitioner and consequently direct the respondent to regularize the service of the petitioner on par with the batch mates who were regularized vide proceedings of the respondent in No.51339/ A2/ 93 dated 22.09.1993 with all attendant and consequential benefits.

For Appellant : Mr.N.Balamuralikrishnan
for M/s.N.Saravanan

For Respondent : Mr.S.Santhosh Kumar
Mr.K.Azhagu Raman

JUDGMENT

(Judgment was delivered by M.DURAI SWAMY, J.)

Challenging the order passed in the Writ Petition in W.P.No.24849 of 2019, dated 12.08.2021, the Writ Petitioner has filed the above Writ Appeal.



2.The appellant filed the Writ Petition to issue a Writ of Certiorarified Mandamus calling for the proceedings of the respondent dated 11.02.2014 and to quash the same insofar it denies the regularization of service to the petitioner and consequently direct the respondent to regularize the service of the petitioner on par with the batch mates who were regularized vide proceedings dated 22.09.1993 with all attendant and consequential benefits.

3.It is the case of the petitioner that his claim for regularization of his service as Pump Operator with the respondent was rejected through the impugned order dated 11.02.2014 by placing reliance on G.O.Ms.No.22, Personal and Administrative Reforms (F) Department dated 28.02.2006 and G.O.Ms.No.74, Personal and Administrative Reforms (F) Department dated 27.06.2013. It is also the case of the petitioner that he was terminated from the service on 27.04.1989 and he approached the I Additional Labour Court, Chennai and the Labour Court, by its Award dated 22.10.1996, set aside the order of termination and directed the respondent to reinstate the petitioner, together with continuity of service and back wages. The said order was confirmed in the Writ Petition in W.P.No.18200 of 2000 dated 12.10.2000. A Division Bench of this Court also confirmed the order passed in the said Writ Petition in the Writ Appeal in W.A.No.2151 of 2010 dated 31.10.2013. While confirming the order of the learned Single Judge, the Division Bench gave liberty to the appellant herein to approach the respondent seeking for regularization on the ground that similarly placed persons were regularized in the year 1993.

4.The learned counsel for the appellant submitted that the appellant was appointed in the year 1985 and inspite of working for several years, his service was not regularized, whereas similarly placed employees' services were regularized in the year 1993. Further, the learned counsel submitted that G.O.Ms.No.74 dated 27.06.2013 has no application to the case of the appellant for the reason that it will not have retrospective effect.

5.The respondent denied the case of the appellant stating that he was not appointed in the year 1985 and that he has not completed ten years of service as contemplated in G.O.Ms.No.74 dated 27.06.2013. Further, the learned counsel submitted that the Writ Petition ought to have been dismissed on the ground of laches for the reason that the petitioner has filed the Writ Petition challenging the impugned order dated 11.02.2014 only in the year 2019.



6. On a perusal of the Award passed in the I.D.No.1194 of 1991 on the file of the I Additional Labour Court, it could be seen that the appellant has not produced any document to establish that he was appointed in the year 1985. Further, he has not produced any documents to prove that he was qualified to hold the post of Pump Operator. In spite of not producing any document to establish his case, the Labour Court ordered reinstatement together with backwages. Challenging the Award passed by the Labour Court, the respondent filed the Writ Petition in W.P.No.18200 of 2000 and the learned Single Judge, by order dated 19.11.2009, modified the Award of the Labour Court by setting aside the Award with regard to payment of back wages and confirmed the Award with regard to reinstatement. The order of the learned Single Judge was also confirmed in W.A.No.2151 of 2010.

7. On a perusal of the Government Order in G.O.Ms.No.74, dated 27.06.2013, it could be seen that the Government has made it clear that the order shall be deemed to have been come into force with retrospective effect from 01.01.2006 in Clause - 6. The Government has also stated that the services of the full time daily wage employees who were initially appointed on full time basis in consultation with the Employment Exchange to discharge the function of the post in the Tamil Nadu Basic Service and completed ten years of service as on 01.01.2006 shall be regularized against regular vacancies in the sanctioned cadre strength.

8. The learned counsel for the respondent submitted that the appellant has not completed the stipulated ten years of service, hence, he is not entitled for regularization. The appellant has not established that he was employed for more than ten years as contemplated in G.O.Ms.No.74.

9. When the appellant has not even produced the appointment letter to establish that he was employed with the respondent since 1985, the contention of the appellant cannot be accepted. Since the appellant did not put in ten years of service under the respondent at any point of time, the learned Single Judge, taking into consideration the Government Orders in G.O.Ms.Nos.22 and 74, dismissed the Writ Petition. It is also pertinent to note that the appellant has not explained the reasons for the laches in challenging the impugned order dated 11.02.2014 after a lapse of five years.



10. In these circumstances, we do not find any ground to interfere with the order passed by the learned Single Judge. The Writ Appeal is devoid of merits and the same is dismissed. No costs.

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Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

The Member Secretary,
Sports Development Authority of Tamil Nadu,
EVR Salai, Chennai - 84.
Present Office address:
No.3, Periamedu,
Nehru Stadium,
Chennai - 600 003.

+1cc to Mr.K.Azhagu Raman, Advocate, S.R.No.61344

W.A.No.2684 of 2021

VG-II[co]
NSK 06/12/2021