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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2021

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THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.A. No.2731 of 2018
and
C.M.P. No.22508 of 2018

R.Ramalekshmi

...Appellant/Petitioner

vs

1. The State of Tamil Nadu,
rep. By the Secretary,
Environment and Forest Department,
Fort St.George, Chennai -9.
2. The Principal Chief Conservator of Forests,
Panagal Building, Saidapet,
Chennai - 15.
3. The Chief Principal Conservator of Forests,
(Afforestation) and Chief Project Director,
of Tamil Nadu Bio-Diversity Conservation and
Greening Project, JFM Centre,
Velachery Main Road, Chennai - 600 032.
4. The Chief Conservator of Forests,
Southern Region, Race Course Road,
Madurai.
5. The Forest Extension Officer,
Forestry Extension Division,
Kanyakumari at Aralvoimozhi.
6. The Conservator of Forests,
Tirunelveli Circle, Tirunelveli.

...Respondents

Prayer :-

Writ Appeal filed under clause 15 of the Letters Patent
against the order dated 17.07.2018, passed in W.P.No.15366 of
2013.



Prayer in W.P.No.15366 of 2013:

Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the first and second respondents to consider and regularise the services of the petitioner to any eligible post on the basis of G.O.Ms.No.22, P&AR Department, dated 28.2.2006, on completion of 10 years of casual labourer services forthwith thereto and to extend all service benefits arising out of the same.

For Appellant : Mr.M.Ganesh
For Respondents : Mr.C.Jayaprakash
Government Advocate

JUDGMENT

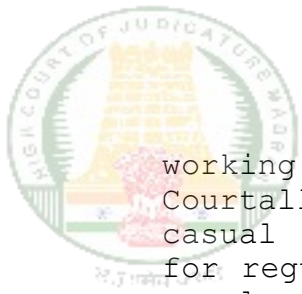
(Delivered by PUSHPA SATHYANARAYANA, J.)

The challenge in this Appeal is to an order passed by the Writ Court, in W.P.No.15366 of 2013, dated 17.07.2018.

2. The appellant, who was appointed as Casual Labour, in Tamil Nadu Forest Plantation Corporation (in short, TAF CORN Ltd.), in the year 1997 was later posted as Section writer-cum-Typist in the year 2001 in Tirunelveli Division and was directed to discharge duty as Computer Operator by virtue of her qualification in Typewriting and Computer Application. She has been discharging duties as Computer Operator in Tirunelveli Forest Division, Courttallam Range for over 11 years and from May, 2012, she has been working as Data Entry Operator in the Forestry Extension Division.

3. By virtue of the order passed by the Government, vide G.O.Ms. No.276 of Environment and Forests (Fr.6) Department, dated 13.12.2012, she was appointed as Contractual staff through outsourcing. Later, another Government Order, was issued vide G.O.(Ms.) No.22 of Personnel and Administrative Reforms (F) Department, dated 28.02.2006, prescribing for regularization of Casual Labourers after they completed 10 years of daily wage employment. The appellant, who had completed more than 15 years of service as daily wage employee in Forest Corporation and Forest Department sought for regularisation of service by virtue of G.O.Ms.22, dated 28.02.2006.

4. Further, in the proceedings, bearing Na.Ka.No.2429/2011/PA2, dated 05.05.2011, the District Forest Officer, Tirunelveli Division recommended for regularization of the appellant's service. In the said recommendation, it has been categorically pointed out that the appellant had been working in TAF CORN between 1997 to 2001 and from 2001 till date, she is



working as Computer Operator in the Forest Range Office, Courtallam Range. As she had completed more than 10 years of casual service, a proposal was sent along with relevant files for regularizing her service. It was specifically recommended to regularize the service of the appellant in the post of Computer Operator as per the rules. The District Forest Officer had also given a certificate, dated 02.05.2012, stating that the appellant worked as Typist in the office of Deputy Conservator of Forest/Manager, Sandal wood Products Factory, TAFCON from August, 1997 to April, 2001 and she is working as Computer Operator in the Forest Range Office, Courtallam Range from September, 2001 to till date. Despite the said recommendation, her service was not regularized. Hence, the appellant/writ petitioner filed W.P.No.15366 of 2013, seeking a mandamus to consider her service and regularize the same based on G.O.Ms.No.22 of P & AR Department, dated 28.02.2006. The Writ Court erroneously held that, when the Casual Employees are appointed in accordance with the recruitment rules, their service cannot be regularized nor they can be brought under regular establishment, and refused to issue mandamus. The Writ Court had further held that the appointment of the appellant was through back door entry, and therefore, she cannot be regularized merely on the ground of length of service rendered by her. The said findings of the Writ Court are not correct in view of the facts narrated. Even the District Forest Officer, in whose Department, the appellant had been employed has specifically stated that she has been working from 1997 without any break in service and she was appointed as Contractual Staff through proceedings, dated 13.12.2012. When her appointment is based on a Government Order, the same cannot be said to be back door entry. But the Writ Court dismissed the Writ Petition on misconceived facts.

5. The learned counsel appearing for the appellant placed reliance on the judgements passed by this Court by quoting various Single Bench and Division Bench decisions. In one of the decisions rendered by the Division Bench in W.A.No.686 of 2017, dated 12.07.2017, in re Government of Tamil Nadu, and three others Vs. S.Murugan, it was held that the appellant was in service right from 1997, without any break and he was directed to be regularized by the Division Bench of this Court, which was also confirmed by the Hon'ble Supreme Court, in S.L.P.No. 29276 of 2018 on 04.09.2018. Similarly, in the batch of Writ Appeals filed by the drivers, their services were also directed to be regularized by the Forest Department.

6. The learned Government Advocate for the respondents submits that the Government has also not taken into dispute the applicability of the above said decisions to the facts of the present case.



7. We have heard the learned counsel for the appellant as well as the learned Government Advocate for respondents and perused the materials placed on record.

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8. In the light of the above narrated facts, we are of the view that when the continuity of employment without any break of the appellant is not disputed, we cannot also take a different view in this matter, except, following the similar view taken by this Court in the above referred cases. In such circumstances, the order of the learned Single Judge is set aside and the Writ Appeal is allowed. The respondents are directed to regularize the service of the appellant as Computer Operator from the date of her initial appointment with all consequential attendant benefits. The said order has to be complied with by the respondents 1 and 2 or any other Competent Authority, within a period of 12 weeks from the date of receipt of a copy of this judgment. However, there shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition with direction is also closed.

Sd/-

Assistant Registrar (CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary, State of Tamil Nadu,
Environment and Forest Department,
Fort St. George, Chennai -9.
2. The Principal Chief Conservator of Forests,
Panagal Building, Saidapet,
Chennai - 15.
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(Afforestation) and Chief Project Director,
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5. The Forest Extension Officer,
Forestry Extension Division,
Kanyakumari at Aralvoimozhi.

6. The Conservator of Forests,
Tirunelveli Circle, Tirunelveli.

+1 CC to Mr.M.Ganesh, Advocate, Sr.No. 43747.

+1 CC to The Special Government Pleader(Forest), Sr.No. 44010.

W.A. No.2731 of 2018

NR(CO)
LS(28/09/2021)