



W.P.No.17265 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.17265 of 2018

T.Kuppusamy

... Petitioner

-Vs-

1. The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Rural Development &
Panchayat Raj Department,
Fort St.George,
Chennai 600 009.

2. The Director of Rural Development and Panchayat,
Panagal Building,
Saidapet, Chennai 600 015.

3. The District Collector,
Krishnagiri District,
Krishnagiri.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to regularise the service of the petitioner in the cadre of Office Assistant from the date of his initial appointment viz., 25.09.2009 with all benefits such as fixation of pay, arrears of pay and pensionary benefits.



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For Petitioner : Mrs.T.Hemalatha

For Respondents: Mr.J.C.Durairaj
Additional Government Pleader

ORDER

The prayer sought for herein is for a writ of Mandamus to direct the respondents to regularise the service of the petitioner in the cadre of Office Assistant from the date of his initial appointment viz., 25.09.2009 with all benefits such as fixation of pay, arrears of pay and pensionary benefits.

2. The petitioner was initially appointed as Fitter Assistant at Hosur Panchayat Union on 01.04.1996 on daily wage basis. Thereafter, the Government has taken a policy decision to bring the daily wage Fitter Assistant who were appointed between 1982 and 01.04.1997, to the post of Office Assistant, Night Watchman. The Government Order to that effect was issued on 15.06.2006 in G.O.(Ms.)No.55, Rural Development and Panchayat Department.

3. Based on the Government Order, the petitioner was appointed as



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Office Assistant at Sulagiri Panchayat Union by the proceedings of the District Collector, Krishnagiri District, dated 22.09.2009, and consequently he joined in the said post of Office Assistant on 25.09.2009 and had been working as such till his superannuation and retired from service on 30.04.2018.

4. During this period between 25.09.2009 and 30.04.2018, though the petitioner had been working in the permanent job of Office Assistant, his service was not regularised by giving some relaxation of educational qualification and age criteria and in this regard, even though proposal was sent by the District Collector to the Government, and the said proposal was still pending and it has not been considered and in the meanwhile, since the petitioner has attained the age of superannuation, he was retired from service on 30.04.2018.

5. Only at this juncture, the petitioner has approached this Court by filing the present Writ Petition to seek for a Writ of Mandamus to give a direction to the respondents to regularise the service of the petitioner by giving relaxation of age and educational qualification, for which, the proposal sent by the District Collector is said to be pending before the



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Government.

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6. Reiterating the aforesaid, Mrs.T.Hemalatha, learned counsel appearing for the petitioner seeks indulgence of this Court.

7. Mr.J.C.Durairaj, learned Additional Government Pleader, appearing for the respondents has relied upon the following averments made in the counter affidavit.

“9. It is submitted that as the petitioner has contended, regularisation of service takes time and relaxation in educational qualification by the Government is expected.

It is submitted that proposal has been sent for relaxation of educational qualification in the case of petitioner and others and the same is under consideration of the Government as recommended by the Director of Rural Development and Panchayat Raj.”

8. Relying upon the same, the learned Additional Government Pleader would submit that though the proposal was sent to the Government which is still pending, because, the relaxation of age and educational qualification has to be given only by the Government, after



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such a relaxation is given, then only the regularisation order would be passed by the Appointing Authority, therefore, awaiting the orders to be passed by the Government, still the Appointing Authority is waiting, therefore, once an order is passed by the Government either way, accordingly the Appointing Authority i.e., the District collector would act upon.

9. I have considered the submissions made by both sides and have perused the materials placed before this Court.

10. In view of the aforesaid, where the proposal has already been sent by the Appointing Authority to the Government for giving relaxation for the purpose of regularising the services of the petitioner as Office Assistant with effect from 22.09.2009, this Court is inclined to dispose of this Writ Petition with the following orders:

That there shall be a direction to the first respondent to consider the proposal already sent by the District Collector, Krishnagiri, in respect of the regularisation of the petitioners appointment as Office Assistant on 22.09.2009 by the District Collector's



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proceedings in R.C.No.9806/2006/M3 and pass orders thereon by giving relaxation of age and educational qualification enabling the District Collector to give such regularisation to the petitioner from the date of his appointment, within a period of twelve weeks from the date of receipt of a copy of this order. It is made clear that once such an order is passed by the Government, the third respondent District Collector shall pass consequential order of regularisation of the services of the petitioner as Office Assistant with effect from 22.09.2009 and the service benefits if any payable to the petitioner in view of such regularisation of his service shall also be calculated and be paid thereafter within a period of eight weeks.

11. With these directions, this Writ Petition is disposed of. There shall be no order as to costs.

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Index: Yes/No

Speaking order: Yes/No



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To

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R.SURESH KUMAR, J.

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