



W.P.No.16329 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.11.2022

Coram:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.16329 of 2020

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R.Jagadeesan

.. Petitioner

Vs.

1. The Union of India,  
Rep. by its Secretary to Govt. of India,  
The Ministry of Corporate Affairs,  
5th Floor, Shastri Bhavan,  
"A" Block, Dr.Rajendra Prasad Road,  
New Delhi-100 001.

2. The Regional Director,  
Ministry of Corporate Affairs,  
5th Floor, Shastri Bhavan,  
No.26, Haddows Road,  
Chennai-600 006.

3. The Official Liquidator,  
Ministry of Corporate Affairs,  
Corporate Bhavan, II Floor,  
No.29, Rajaji Salai,  
Chennai-600 001.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents to regularize the services of the petitioner as MTS with effect from 13.03.1995 with all consequential service benefits.

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For petitioner : Mr.L.Chandrakumar for Mr.K.Jayaraman

For respondents: Mr.S.Diwakar, SPCCG

### ORDER

This Writ Petition has been filed for a Mandamus to direct the respondents to regularise the services of the petitioner as per the Multi-Tasking Staff (MTS) service with effect from 13.03.1995 with all consequential service benefits.

2. The petitioner claims that he was appointed as an Estate Assistant with effect from 13.03.1995 by the third respondent. The petitioner has retired from service on 30.06.2020. According to the petitioner, though he had worked for more than 25 years, he was never regularised as Estate Assistant. He had earlier approached this Court by filing a Writ Petition in W.P.No.11571 of 1999 seeking for a Mandamus to direct the respondents to regularise him as Lower Division Clerk (LDC) in the Office of the third respondent with effect from the date of his first appointment i.e. from 13.03.1995. This Court, by order dated 22.04.2019 in the said Writ Petition, directed the respondents to regularise the petitioner's service soon after a vacancy arises. According to the petitioner, subsequent to the order dated 22.04.2019 in the said Writ Petition, he was also asked for his willingness for regularisation through the Office Memorandum, dated 12.06.2019



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issued by the third respondent. The petitioner had expressed his willingness to be regularised as MTS, vide his representation, dated 14.06.2019. However, according to the petitioner, till date, his services have not been regularised. In such circumstances, the petitioner has filed the present Writ Petition.

3. A Counter affidavit has been filed by the second respondent denying the contentions of the petitioner. According to the second respondent, the panel meant for LDC is redundant, and therefore, the petitioner cannot be regularised as LDC. According to the respondents, the Ministry of Corporate Affairs, vide its Office Memorandum dated 03.05.2012, has clarified that the panels prepared in the year 2000, cannot have validity in the year 2011/2012 and the past panels have to be dissolved to re-prepare the panels after screening of Company Paid Staff (CPS) engaged upto 27.08.1999 for absorption in the only available Group-C post of MTS.

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

5. Learned counsel for the petitioner drew the attention of this Court to the order passed by a Division Bench of this Court on 10.07.2019 in W.A.Nos.1308 and 1309 of 2019 and submitted that as per the said order of the Division Bench, it is clear that a scheme was framed for absorption of similarly

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placed persons as that of the petitioner. The Division Bench has observed as follows:

"3. From the above narration it is clear that a scheme was framed for absorption. Recently, a scheme has been evolved by the 2nd respondent in and by which they have sought to regularise the CPC by absorbing them as MTS and for which purpose they have asked the willingness of the staff engaged on or before 27.08.1999. It is also submitted that the respective appellants have since superannuated.

... ..

5. The appellants were not absorbed in service in spite of a scheme framed pursuant to the direction issued by the Supreme Court. The ban imposed for filling up the post of Group C and D was the main reason for the non availability of posts for absorption. The appellants were not responsible for the situation. We are therefore of the view that the Ministry must take a decision forthwith for absorption of the appellants, taking into account the letter dated 12 June 2019. The appellants would be entitled to the benefits notionally without any claim for differential salary. We are issuing this interim direction to the respondent, in view of the pitiable condition of the appellants, who are now out of service."

6. It is also brought to the notice of this Court by the learned Central Government Standing Counsel appearing for the respondents that aggrieved by the aforementioned order dated 10.07.2019 passed in W.A.Nos.1308 and 1309 of 2019, the respondents have preferred a Special Leave Petition (SLP) before the Supreme Court and he drew the attention of this Court to the order passed in



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SLP on 13.01.2020 by the Supreme Court in S.L.P.Nos.25025 and 25026 of 2019,  
which reads as follows:

"We are not inclined to interfere with the interim order passed by the High Court of Judicature at Madras. The Special Leave Petitions are dismissed. Pending application(s) shall stand disposed of.

We are informed that the respondent has retired on attaining the age of superannuation on 31.05.2019. The petitioner shall implement the directions issued by the High Court in the impugned order and regularize the services of the respondent. It is reiterated that the respondent shall not be entitled for any differential salary on the basis of the fixation of pay. We make it clear that the respondent shall be paid the pensionary benefits to which she is entitled to pursuant to the regularisation of her services.

This order shall not be treated as a precedent."

7. Learned counsel for the petitioner submitted that pursuant to the order of the Supreme Court, confirming the order passed by the Division Bench of this Court, the petitioners in the said case were regularised by order dated 17.06.2020 from the date of their initial appointment. Learned counsel for the petitioner submitted that since the petitioner herein is also similarly placed like that of the petitioners in the said case, the petitioner is also entitled to be regularised.

8. Even though a positive direction has been sought for in this Writ



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Petition and in view of the fact that the Honourable Supreme Court has observed in the said order that the same cannot be treated as a precedent in any other case, learned counsel for the petitioner would now submit that the petitioner will be satisfied if he is allowed to give a fresh representation to the respondents seeking for regularisation of his services as MTS in the third respondent's office based on the order passed by the Division Bench of this Court on 10.07.2019 referred to supra and if a direction is issued by this Court to the respondents to consider the said representation of the petitioner within a time frame to be fixed by this Court.

9. Accordingly, this Court directs the petitioner to submit a fresh representation to the second respondent seeking regularisation of his services as MTS with effect from the date of his initial appointment to the post on the basis of the order dated 10.07.2019 passed by the Division Bench of this Court in the said Writ Appeals, within a period of one week from the date of receipt of a copy of this order and on receipt of such a representation from the petitioner, the second respondent shall pass final orders on merits and in accordance with law, within a period of eight weeks thereafter.

10. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs.

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Speaking Order: Yes/no

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To

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