

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.26186 to 26189 of 2014

1.S.Vasantha	... Petitioner in W.P.No.26186 of 2014
2.A.Arivazhagan	... Petitioner in W.P.No.26187 of 2014
3.T.Dhanapandian	... Petitioner in W.P.No.26188 of 2014
4.K.Parvathi	... Petitioner in W.P.No.26189 of 2014

Vs.

1. The Secretary to Government,
Adi-Dravidar and Tribal Welfare Department,
Fort St. George,
Chennai - 600 009.
2. The Commissioner of Adi-Dravidar Welfare,
Chepauk,
Chennai - 600 005.
3. The District Adi Dravida Welfare Officer,
Perambalur,
Perambalur - District

... Respondents in all W.Ps

Common Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in G.O.Ms.No.25 Adi Dravidar and Tribal Welfare Department dated 25.02.2011 and quash the portion giving effect of regularization with Time Scale of Pay from the date order and direct the 1st respondent to regularize the petitioner service in Time Scale of Pay in the post of Cook w.e.f. 31.10.2007 with all consequential benefits.

For Petitioners

: Mr.P.Arumugarajan
(in all W.Ps)

For Respondents
[For R1 to R3]

: Ms.S.Anitha
Special Government Pleader
(in all W.Ps)

COMMON ORDER

The Government Order issued in G.O.Ms.No.25 dated 25.02.2011 is sought to be quashed in these present writ petitions.

2. The writ petitioners studied up to VIII Standard and enrolled their names in the District Employment Exchange Office, Trichy. The names of the writ petitioners were sponsored for appointment to the Post of Cooks in Adi Dravida Welfare Students Hostels in Perambalur District. The writ petitioners were appointed on a consolidated pay in proceedings dated 29.10.2007. Monthly consolidated pay of Rs.850/- was paid during the year 2007 and the petitioners were allowed to continue in service. The consolidated/temporary employees made representations to the Government to regularise their services. Accordingly, the Government considered the cases of such consolidated pay employees and issued G.O.Ms.No.25, Adi Dravidar and Tribal Welfare Department dated 25.02.2011, regularizing the services of these consolidated employees in the time scale of pay. The relevant rules prescribing age limit was relaxed in favour of the writ petitioners, wherever required. As per the Government order, the services of the writ petitioners were regularized with effect from the date of passing of the order on 25.02.2011.

3. The learned counsel for the writ petitioners mainly contended that the writ petitioners are entitled to be regularized from the date of initial appointment on 29.10.2007 in the sanctioned posts. However, the Government order impugned was issued, granting the benefit of regularization from the date of issuance of the order and therefore, the petitioners are constrained to move the present writ petitions.

4. The initial appointment of the writ petitioners was made on temporary basis in a consolidated salary. No doubt, the petitioners were allowed to continue as temporary employees on consolidated pay for about four years and thereafter, their services are regularized in the regular time scale of pay. Under these circumstances, the regularization and permanent absorption granted in favour of the writ petitioners itself was a concession extended by the Government through the Government order issued in G.O.Ms.No.25 dated 25.02.2011. Such a concession

and benefit of regularization extended cannot be granted with retrospective effect, so as to regularize the temporary appointment on consolidated salary. In view of the fact that the initial appointments were not made in a regular time scale of pay in a sanctioned post, the Court cannot issue any direction to regularize the services of the writ petitioners with retrospective effect.

5. In the present case, the services of the writ petitioners are regularized four years from the date of appointment as consolidated pay employees. This being the factum, the petitioners are not entitled for any further concession for retrospective regularization of the services. This Court do not find any infirmity in respect of the Government order passed in this regard. The respondents have stated that at the time of appointment of the writ petitioners, the Government have not sanctioned the regular post and the regular post itself was sanctioned from the date of issuance of the Government order i.e., G.O.Ms.No.25. Therefore, in the absence of any sanctioned post, the Government would not be in a position to regularize the services of the writ petitioners retrospectively with effect from the date of their initial appointment.

6. Thus, it is made clear that the initial appointment of the writ petitioners was not made against the sanctioned post and in view of the principles laid down by the Hon'ble Supreme Court of India for grant of regularization and permanent absorption in the case of the Secretary, State of Karnataka and others vs. Umadevi and others reported in (2006) 4 Supreme Court Cases 1, the retrospective regularization cannot be granted as the initial appointment of the writ petitioners was not against a sanctioned post and more so, the Government relaxed the age limit, wherever required.

7. This being the factum established, the writ petitioners have not made out any acceptable ground for the purpose of granting the relief as such sought for in the present writ petitions and accordingly, all the four Writ Petitions stand dismissed. No costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

kak/jeni

To

1. The Secretary to Government,
Adi-Dravidar and Tribal Welfare Department,
Fort St. George, Chennai - 600 009.
2. The Commissioner of Adi-Dravidar Welfare,
Chepauk, Chennai - 600 005.
3. The District Adi Dravida Welfare Officer,
Perambalur, Perambalur - District.

+4ccs to Mr.P.Arumugarajan, Advocate, S.R.No.40591 - 40594
+1cc to the Government Pleader, S.R.No.40779

W.P.Nos.26186 to 26189 of 2014

GJ[co]
NSK/20/07/2022