



W.P.(MD) No.18953 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.18953 of 2019

and

W.M.P. (MD) No.15270 of 2019

WEB COPY

S.Krishnasamy

... Petitioner

vs.

1.The Government of Tamil Nadu
rep.by its Principal Secretary to Government
Finance Department, Secretariat
Chennai-600 009

2.The Principal Secretary and
Commissioner of Treasuries and Accounts
3rd Floor, Integrated Office Complex
for Finance Department
Veterinary Hospital Campus
Anna Salai, Nandanam
Chennai-600 035

3.The Treasury Officer
District Treasury
106, Anguvilas Salai
Mettupatty, Dindigul-624 002

4.The Accountant General (A&E)
of Tamil Nadu
361, Anna Salai
Teynampet, Chennai-600 018

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus by calling for the records relating to the order Na.Ka.No.29215/C1/201 dated 23.05.2019 passed by the 2nd respondent and the consequential order Na.Ka.No.14862/2017/A1 dated 04.06.2019 passed by the 3rd respondent and quash the same and consequently direct the respondents to regularize the service of the petitioner from the date of appointment as Night Watchman i.e. from 06.03.1991 within a time limit fixed by this Court.

For Petitioner : Mr.A.Thirumuthry

For Respondents : Mr.A.K.Manikkam

Special Government Pleader for R1 to R3

Mr.P.Gunasekaran for R4



O R D E R

The order of rejection, dated 23.05.2019, passed by the second respondent and the consequential order, dated 04.06.2019, passed by the third respondent rejecting the claim of the petitioner for grant of retrospective of regularization, are under challenge in this writ petition.

2. The petitioner was appointed on daily wage basis as Office Assistant in the year 1986 and he joined duty on 24.09.1986. Subsequently, he was appointed on regular basis in the vacant post as Night Watchman from 06.03.1991 on daily wage basis as fixed by the District Collector. The petitioner states that he was continuously working as daily wage employee and filed O.A.No.202 of 1993 before the Tamil Nadu Administrative Tribunal. The Tribunal passed an order on 22.08.2003 granting the benefit of regularization of service to the petitioner by relaxing the Rules, if necessary. Pursuant to the said order, the service of the petitioner was regularized by the respondents by G.O.(D) No.369, Finance Department, dated 14.08.2007. Accordingly, the service of the petitioner was regularized from the date of issuance of Government Order.

3. The learned counsel for the petitioner made a submission that the petitioner is entitled for retrospective regularization from the date of regular appointment in the regular vacancy. However, the Government Order restricted the regularization of service from the date of Government Order. In similar circumstances, the case of the other similarly placed persons was considered and therefore, the relief of retrospective regularization is to be granted to the petitioner.

4. The learned Special Government Pleader appearing for the respondents 1 to 3 objected the said contention by stating that the petitioner was not appointed by following the Rules initially. His appointment was irregular. Further, the benefit of regularization was granted from the date of the Government Order dated 14.08.2007. The petitioner has not challenged the said Government Order and chosen to submit a representation in the year 2018, after a lapse of eleven years from the issuance of the said Government Order. Thus, the representation itself is belated and further, the petitioner has already reached the age of superannuation and hence, he is not entitled for the relief sought for in this writ petition.

5. This Court is of the considered opinion that admittedly, the petitioner was appointed on daily wage basis. Subsequently, he was absorbed in the regular vacancy and his service was regularized pursuant to the orders passed by the Tribunal. The Government has also relaxed the Rules in favour of the petitioner and granted the



benefit of regularization to him. The regularization of service granted to the petitioner itself is a concession and therefore, the retrospective regularization cannot be granted so as to regularize the services of the petitioner from the date of his initial appointment. When the initial appointment itself was irregular and regularization was granted to the petitioner by relaxing the relevant Rules, the petitioner is not entitled for the relief as such sought for in this writ petition.

6. This apart, the regularization of service was granted by the Government vide Government Order dated 14.08.2007, the petitioner has chosen to submit a representation in the year 2018, after a lapse of eleven years and now, he has attained the age of superannuation. Thus, the petitioner has approached this Court belatedly.

7. For all these reasons, the benefit of retrospective regularization as sought for by the petitioner cannot be granted and the reasons assigned by the respondents in the impugned orders are in consonance with the relevant Rules in force.

8. Accordingly, the writ petition is devoid of merits and dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (LA&MC)

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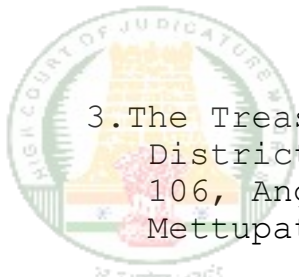
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Sub Assistant Registrar(CS)

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To:

- 1.The Principal Secretary to Government,
Finance Department, Secretariat,
Government of Tamil Nadu,
Chennai-600 009.
- 2.The Principal Secretary and
Commissioner of Treasuries and Accounts,
3rd Floor, Integrated Office Complex
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3.The Treasury Officer,
District Treasury,
106, Anguvilas Salai,
Mettupatty, Dindigul-624 002.

+1 CC to M/s.A.THIRUMURTHY, Advocate (SR-6335[F] dated 15/02/2022)

+1 CC to M/s.SPL GP (SR-6528[F] dated 16/02/2022)

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