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W.P.No.1570 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2023

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.No.1570 of 2020

P.Sampath

... Petitioner

Vs.

1.The Secretary to Government,
Animal Husbandry and Fisheries Department,
Secretariat, Fort. St.George, Chennai – 600 009.

2.The Director of Animal Husbandry and Veterinary Services,
Central Administrative Buildings,
DMS Campus, Chennai – 6.

3.The Zonal Joint Director,
Department of Animal Husbandry,
Nagapattinam.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned seniority order issued by the second respondent in Na.Ka.No.17804/No.1/2018 dated 23.05.2018, quash the same and consequently direct the second respondent to regularize service of the petitioner in accordance with G.O.Ms.No.528, Personnel and Administrative Reforms (Per.F) Department dated 10.10.1988 and G.O.Ms.No.22, Personnel and Administrative Reforms Department, dated 10.10.1988.



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For Petitioner : Mr.D.Senthur Kugan,
for Mr.S.Harshavardhanan

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For Respondents : Mrs.M.Jayanthi,
Additional Government Pleader

ORDER

Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the records.

2. The case of the petitioner is that he had joined service as part time employee on 05.09.1989 in the department of Animal Husbandry. He has been working in the said department, since 1988 as an Assistant with an unblemished work record. Many persons who are in the same designation at the relevant point of time, had approached this Court for regularisation of services, as per G.O.Ms.528, Personnel and Administrative Reforms (Per.F) Department dated 10.10.1998.

3. The High Court of Madras disposed of several writ petitions including W.P.No.35691 of 2007 and batch, with a direction to the respondents therein, to issue suitable orders absorbing them into regular time scale of pay, provided with the satisfaction of seniority and other requirements. In compliance of the order of this Court, the respondents have regularised the services of the similarly situated employees vide proceedings in Na.Ka.No.1825/A/2012 dated 13.08.2012. He made



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several representations dated 29.06.2017, 30.06.2017 and 01.07.2017 requesting the respondents to regularise in services, as done in the case of similarly placed persons.

The petitioner filed a writ petition in W.P.No.3430 of 2018. The said writ petition was disposed of on 16.02.2018, with a direction to the respondents to consider the representations of the petitioner and to pass appropriate orders, within a period of three months. The second respondent had rejected the representations of the petitioner for regularisation vide proceedings dated 23.05.2018. Aggrieved by the same, the present writ petition is filed.

4. Learned counsel for the petitioner contends that the respondents have rejected the representation of the petitioner with false grounds. As such, the order impugned in this writ petition is liable to be set aside.

5. On the other hand, the learned Additional Government Pleader submits that based on the averments of the counter affidavit that the petitioner is not entitled for regularisation, as he is working as part time employee and as such, there is no illegality or irregularity in the order passed by the second respondent in rejecting the representation of the petitioner for regularisation and sought to dismiss the writ petition.



6. Having heard the respective counsels and upon perusal of the material available on record, it is an admitted fact that the similarly situated persons filed several writ petitions before this Court and this Court disposed of the same directing the respondents therein to issue suitable orders absorbing them into regular time scale of pay and the said order is complied with by the respondents and the petitioners therein were regularised vide proceedings dated 13.08.2012. But, in the case of the petitioner, the respondents are placing false information before this Court by way of their counter affidavit. Without mentioning about the orders passed by this Court in favour of the similarly placed persons and order of compliance to regularise their services.

7. Learned counsel for the petitioner has drawn the attention of this Court to the paragraph No.3 of order dated 02.09.2010 in W.P.No.35691 of 2007 and batch, wherein, this Court held as extracted hereunder:

“3. In view of the above stated position, the learned Government Advocate appearing for the respondents submitted that the present writ petition may also be allowed since the petitioners have put in more than 10 years of service in their Department either as part time employees or as daily wages and they are also entitled for the regularization as per G.O.Ms.No.528, Personnel and Administrative Reforms (Per.F) Department, dated 10.10.1988 and G.O.Ms.No.22, Personnel and Administrative Reforms Department,



dated 10.10.1988. The respondents are directed to issue suitable orders absorbing the writ petitioners into regular time scale of pay, provided they satisfy the seniority and other requirement. The said exercise shall be carried out by the respondents within a period of three months from the date of receipt of a copy of this order.”

8. On perusal of the order passed by this Court as stated supra, in the considered opinion of this Court, the petitioner also similarly placed person to the petitioners' in those writ petitions and as such, he also entitled for the relief granted by the Court in those writ petitions.

9. Accordingly, this Court has no hesitation to hold that the impugned order is unsustainable under law, as it is issued without considering the orders passed by this Court in the case of similarly placed persons. As such, the order impugned in this writ petition is liable to be set aside.

10. For the above mentioned reasons, this Writ Petition is allowed, with the following directions:

(i) The order impugned in this writ petition in Na.Ka.No.17804/No.1/2018 dated 23.05.2018 issued by the second respondent is hereby set aside.

(ii) The respondents are directed to issue suitable orders to absorb the writ petitioner into regular time scale of pay.



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(iii) The respondents are directed to regularise the service of the petitioner, within a period of four weeks from the date of receipt of copy of this order, on par, with the similarly placed persons, in whose favour, the second respondent issued proceedings in Na.Ka.No.1825/A/2012 dated 13.08.2012,

11. There shall be no order as to costs.

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Index :Yes/No

Neutral Citation :Yes/No

AT

Note: Issue order copy on 30.06.2023.



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To

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Animal Husbandry and Fisheries Department,
Secretariat, Fort. St.George, Chennai – 600 009.

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