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W.P.Nos.19176 & 19177 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.19176 & 19177 of 2013

S.Uma Rani

...Petitioner in W.P.
No.19176 of 2013

B.Padmavathi

...Petitioner in W.P.
No.19177 of 2013

-Vs-

1. The Government of Tamil Nadu,
Rep. by its Secretary,
Labour and Employment (R2) Dept.,
Fort St. George,
Chennai – 9.
2. The Special Commissioner and Commissioner
of Employment & Training,
Guindy, Chennai – 600 032.
3. The District Employment Officer,
O/o. The District Employment,
Cuddalore District.

... Respondents in
both W.Ps.

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, call for the records from the first respondent relating to G.O.Ms.No.165, Labour and Employment Dept. dated 23.11.2006 and quash the same



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and consequentially direct the respondents herein to regularize the service of the petitioners in the post of Typist from the date of their appointment on time scale of pay with all attendant benefits.

In both W.Ps.

For Petitioner : Mr.V.Venkkatasamy

For Respondents : Mr.L.S.M.Hasan Fizal
Additional Government Pleader

COMMON ORDER

Both the writ petitions have been filed challenging the government order in G.O.Ms.No.165, Labour and Employment Dept. dated 23.11.2006, and also to direct the respondents to regularize the service of the petitioners in the post of Typist from the date of their appointment on time scale of pay with all attendant benefits

2. Both the petitioners are fully qualified and eligible for the post of typist and they have enrolled their name in the third respondent employment office for employment. The State Government had taken a policy decision to give financial assistance to the unemployed youths who registered their names in the District Employment Office and waiting for employment for a long period. Accordingly, the first respondent issued a government order in G.O.Ms.No.72 Labour and Employment (R2)



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Department, dated 25.08.2006 framing a scheme known as “stipend to unemployed youths scheme”. For implementing the said scheme, the government of Tamil Nadu had created 273 permanent posts in the District Employment Office and 8 posts in the Director of Employment and Training, Guindy.

3. While so, the first respondent issued another government order in G.O.Ms.No.165 Labour and Employment Department dated 23.11.2006 to amend the earlier G.O.Ms.No.72 dated 25.08.2006, in respect of salary payable to the post of Typist and Steno-typist. Accordingly, the Steno-typist and Typist are permitted to appoint on consolidated payment of Rs.4000/- per month, till regular candidates for such posts selected through TNPSC.

4. Accordingly, as directed by the second respondent, the third respondent called for application and in the interview, the petitioners were selected and appointed as Typist on 10.10.2008 by the third respondent as per the G.O.Ms.No.165 dated 23.11.2006. Further, even after five years no one has been appointed on regular basis in the said post and even then the petitioner was paid a sum of Rs.4,000/-



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continuously for over a period of five years as consolidated salary.

Therefore, the petitioners submitted representation to regularize their service permanently. Since the same was not considered, the petitioners filed the present writ petitions.

5. Heard the learned counsel appearing on either side and perused the material placed before this Court.

6. While pending the writ petitions, the government issued another government order in G.O.Ms.No.8, Labour and Employment (R2) Department dated 24.01.2014, in which the government had taken a decision that among the 281 posts originally sanctioned for unemployment Assistance Scheme in G.O.(Ms).No.72, dated 25.08.2006, 278 posts which are originally filed up and last continued upto 31.03.2012, as detailed in the Annexure II of that order, be retained permanently, with effect from 01.04.2012. The incumbents (holding the post on regular time scale of pay) of the posts sanctioned temporarily in the G.O.Ms.No.72 dated 25.08.2006 and retained permanently are eligible to draw pay, dearness allowance, city compensatory allowance, house rent allowance and other allowances admissible under the orders in



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force and the incumbents holding the posts on consolidated pay of Rs.4000/- shall continue to draw the consolidated pay till the posts are filled regularly.

7. Based on the government order in G.O.Ms.No.8, dated 24.01.2014, in the similar matter in W.P.No.17923 of 2010 etc., batch cases, this Court by an order dated 10.04.2017, held as follows :-

“10. It is very pertinent to point out at this juncture that as per G.O.Ms.No.8, Labour and Employment (R2) Department 24.01.2014, the need is permanent, but for the reasons best known, the respondents did not fill up the regular vacancies and extended the services of temporary employees for years together. In the considered opinion of the Court, it also amounts to unfair labour practice and the Government, being the model employer, is expected to act fairly and accommodate the petitioners by way of regularization, but they have failed to do so.

11. In the result, these writ petitions are disposed of and the respondents are directed to consider the claim of the petitioners positively for



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regularization of their employment in the post of Typists and pendency of the same, shall accord Time Scale of Pay in the light of G.O.(Ms)No.97 and G.O.(Ms)No. 8, Labour and Employment (R2) Department dated 30.09.2011 and 24.01.2014 respectively and also in the light of the above cited decision and pass appropriate orders within a period of twelve weeks from the date of receipt of a copy of this order and communicate the decision taken, to the 16 petitioners. No costs. Consequently, connected miscellaneous petitions are closed”

8. In view of the above order passed by this Court, the respondents are directed to consider the claim of the petitioners positively for regularization of their employment in the post of Typists in the light of G.O.Ms.Nos. 97 and 8, labour and Employment (R2) Department dated 30.09.2011 and 24.01.2014 respectively, and pass orders within a period of twelve weeks from the date of receipt of a copy of this Order.

9. With the above directions, both the writ petitioners are disposed of. There shall be no order as to cost.



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Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

rts

To

1. The Secretary,
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Labour and Employment (R2) Dept.,
Fort St. George,
Chennai – 9.
2. The Special Commissioner and Commissioner
of Employment & Training,
Guindy, Chennai – 600 032.
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