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W.P.No.20927 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.12.2023

CORAM:

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.20927 of 2012

S.G.Saroja

...Petitioner.

Versus

The Secretary to Government
Personnel & Administrative Reforms Department,
Fort St.George,
Chennai – 600 009.

...Respondent

Prayer: This writ petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records in pursuant to the impugned order passed by the respondent in letter No.19294/P/2012-2 dated 20.07.2012 and quash the same and consequently direct the respondent to regularize the services of the petitioner in the post of typist with effect from her initial date of appointment on 17.01.1990 with all monetary and other consequential service benefits.

For petitioner : Mr.N.Hariharan Nair

For respondent : Mr.K.Surendran
Additional Government Pleader

ORDER



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It is the case of the petitioner that she was appointed as typist in the office of the District Collector (Development Section), Pudukottai under Rule 10 (a) (i) of Tamil Nadu State and Subordinate Service Rules, 1955 and similarly several other persons were also appointed as typist, steno-typist and junior assistant in the Personnel & Administrative Reforms Department.

2. The respondent has taken policy decision to regularize all the temporary employees by conducting a special qualifying examination in the year 1995 and all those who were successful candidates in the said qualifying examinations were absorbed as regular employees and the service of the petitioner was also regularized with effect from 24.06.1995.

3. However, the request of temporary employees who were unsuccessful in the special qualifying examination conducted by TNPSC in the year 1995, approached the Government and the Government issued G.O (MS). No.124 Personnel and Administrative Reforms Department dated 12.09.2009, directed for regularization of the services of all the temporary employees who failed to succeed in the special qualifying examination conducted by the TNPSC and ordered for the regularization from the date of their initial appointment with service benefits.

4. The petitioner herein having come to know about the said benefit



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that was extended to the persons who remained unsuccessful in the special qualifying examination/test, requested for extending the similar benefit to the petitioner, that is for regularization of her services from the date of initial appointment with service benefits. But the said request made by the petitioner was negated by the respondent by passing the impugned order on the ground that the said G.O.(MS).No.124 dated 12.09.2009 is not applicable to the petitioner and the same applies only to the persons only who were unsuccessful in the special qualifying examination conducted by TNPSC.

5. Though the learned counsel for the respondent filed a counter-affidavit, except narrating the factual scenario, there is no justification made not extending the similar benefit to the petitioner herein as was extended to the persons who failed in the special qualifying examinations.

6. This court have perused the entire material on record including the counter affidavit filed by the respondent, noticed that the petitioner herein who was successful in the said special qualifying examination test conducted by the TNPSC is at a better footing than the persons who remained unsuccessful in the said qualifying examination. However, the respondent state having extended the benefit of regularization of the services of the personnels who were unsuccessful in the said qualifying



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examinations with effect from the date of their initial appointment, denied such benefit to the petitioner herein who was in fact successful in the said qualifying test. If such an action of the respondent is allowed to stand while denying such benefit to the petitioner, the same would have the effect of the persons who were unsuccessful in the special qualifying examinations sitting over the head the persons like petitioner who were successful in the special qualifying examination and thereby the rights of the persons who were successful in the special qualifying examination would get prejudicially affected. Thus the action of the respondent in not extending the benefit of regularization of the services of the petitioner from that date of her initial appointment on par with the persons who were unsuccessful in the special qualifying examination by extending the similar benefit to the petitioner would amount to be arbitrary and illegal.

7. In the said circumstances, the action of the respondent in rejecting the request of the petitioner for regularization of her services from the date of initial appointment is bound to be declared as illegal and arbitrary and the same is accordingly declared as such. Consequently this writ petition stands allowed by directing the respondent to extend the benefit of regularization of petitioner's service from the date of her initial



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appointment and other service benefits similar to the benefit that was extended in G.O.Ms.No.124 dated 12.09.2009 and the entire exercise in this regard should be carried out as expeditiously as possible at any rate within a period of three (3) months from the date of receipt of copy of this order.

8. Accordingly, this writ petition stands allowed with the aforesaid. No costs.

13.12.2023

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation Case: Yes/No
nst

MUMMINENI SUDHEER KUMAR,J.
nst

To:
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Personnel & Administrative Reforms Department,
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