



WEB COPY



W.P.No.29331 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2023

CORAM

THE HON'BLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.29331 of 2011
and M.P.No.1 of 2011

R.Rani

... Petitioner

Vs.

1 The State of Tamilnadu
Rep.by its Secretary to Government
Animal Husbandry, Dairying and
Fisheries Department
Chennai – 600 009.

2. The Commissioner of Animal Husbandry
and Veterinary Services
Chennai – 600 009.

3. The Deputy Director of Animal Husbandry
Udagamandalam
Nilgris District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records connected in Na.Ka.No.21820/N.2/98 dated 08.06.2010 passed by the 2nd respondent and quash the same and direct the respondents to regularise the petitioner husband's service in the post of Animal Husbandry Assistant as per the



W.P.No.29331 of 2011

Government Order in G.O.Ms.No.116, Animal Husbandry (AH.6) Department, dated 07.05.1997 and also direct the respondents to grant family pension to the petitioner with all consequential benefits.

For Petitioner : Mr.A.R.Suresh

For Respondents : Mr.T.K.Saravanan
Government Advocate

ORDER

This Writ Petition is filed challenging the order of the second respondent dated 08.06.2010, whereby the petitioner's representation for grant of terminal benefits, pension and family pension were rejected.

2.The case of the petitioner is that the petitioner's husband – Late P.T.Raman was appointed in the respondent Department on daily wages in the year 1977 and he was continuously working. While so, he died in harness, during his service on 10.08.1996. Subsequently, cases similar to that of the petitioner's husband were considered by the Government and by G.O.Ms.No.116 dated 07.05.1997 all those employees who were working on daily wages and have put in 10 years of service were regularized. Only



W.P.No.29331 of 2011

because, the petitioner's husband died in the meanwhile, the case of the petitioner has not been considered. Therefore, when this Court directed the respondent, to consider the representation and pass orders in accordance with law, there is no way, the respondent could have rejected the case of the petitioner.

3.Perusal of the material records of the case, it seems that the petitioner has filed two Original Applications before the Tamil Nadu Administrative Tribunal. The first O.A., was numbered as O.A.No.1371 of 1998 with the following prayer:

“O.A.No.1371 of 1998 filed before the Tribunal and stood transferred to this Court, praying to direct the respondents to regularise the petitioner's husband's service in the post of Animal Husbandry Assistant as per the Tribunal's Order dated 16.12.1996 in O.A.No.4735 of 1993 and as per the Government Order issued in G.O.Ms.No.116, Animal Husbandry Department dated 07.05.1997 and consequently direct the respondents to provide compassionate appointment to the petitioner's family and also consequently direct the respondents to pay the family pension to the petitioner as the petitioner's husband died while in service before receiving regularisation order as per the above said order.”



W.P.No.29331 of 2011

WEB COPY

4.However, when the same was pending, leaving out the compassionate appointment alone, for the very same prayer of grant of pensionary benefits, another O.A.No.5832 of 1998 seems to have been filed by the petitioner. Both the said O.A's. were transferred to the file of this Court. As far as the O.A.No.5832 of 1998 is concerned the same was re-numbered as W.P.No.37261 of 2006 and was first taken up for hearing by this Court and by an order dated 19.02.2010, this Court dismissed the said Writ Petition. As it is submitted across the bar, by the learned counsel appearing on behalf of the petitioner that the Writ Appeal has also been filed by the petitioner and the Division Bench of this Court has also confirmed the order of the learned Single Judge.

5.After the first order of the learned Single Judge, the Writ Petition in W.P.No.37480 of 2006 (in which O.A.No.1371 of 1998 was re-numbered) came up for hearing and in which, an Order to consider the representation of the petitioner on merits and in accordance with law was passed.



W.P.No.29331 of 2011

WEB COPY

6.A perusal of the first order dated 19.02.2010 it is clear that the learned Single Judge considered the counter affidavit filed by the respondents that even though the petitioner's husband joined the service, he was irregular in service and on many occasions, there was break in service and in all totalling for a period of two years 5 months and 10 days only he worked in the respondent Department. It is also further recorded that his name has been removed from the muster roll even as on his date of death, as he was not in service and therefore, the benefits conferred by the present G.O.Ms.No.116, Animal Husbandry Department dated 07.05.1997, the earlier G.O.62 dated 20.03.1987 were not conferred on him.

7.In that view of the matter, when the order dated 15.03.2010 in W.P.No.34780 has become final, no exception can be taken in the impugned order wherein the representation of the petitioner was rejected by the respondents. Therefore, this Court unable to grant any relief to the petitioner, in view of the earlier round of dismissal, with the very same prayers on the merits of the case.



W.P.No.29331 of 2011

WEB COPY

8.In view of the above reasoning, this Writ Petition stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

28.11.2023

Jer

Index:Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

1The Secretary to Government
State of Tamilnadu
Animan Husbandry, Dairying and
Fisheries Department
Chennai – 600 009.

2.The Commissioner of Animal Husbandry
and Veterinary Services
Chennai – 600 009.

3.The Deputy Director of Animal Husbandry
Udagamandalam
Nilgris District.



WEB COPY



W.P.No.29331 of 2011

D.BHARATHA CHAKRAVARTHY, J.,

Jer

W.P.No.29331 of 2011

28.11.2023