



WEB COPY



WP No.14146 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Petition No. 14146 of 2022

Mend. Chennakesavalu

.. Petitioner

Versus

1. The Registrar General
Hon-ble High Court, Chennai - 104
2. The Principal Judge
City Civil Court, Chennai - 104
3. The Principal Judge
Family Court, Chennai - 104
4. The Principal Secretary to Government
Home (Cts.II Department)
Secretariat, Chennai - 9
5. The Principal Secretary to Government
Law Department, Secretariat
Chennai - 9

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to regularize the petitioner's service from the date of his temporary appointment order dated 10.03.2007 by absorbing his service to the Tamil Nadu Judicial Ministerial Service together with arrears of monetary benefits which is paid to the similar scale employees of this very same department by considering his



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representation dated 21.02.2012 and his reminder dated 27.01.2014 and the recommendations of the Honourable first respondent in his proceedings in Roc.No.725/2014/G2 dated 13.05.2014 in the light of G.O.Ms.No.1482 dated 22.06.1987.

For Petitioner : Mr. V. Neethidurai
For RR1 to 3 : Mr. V. Vijayashankar
For RR 4 and 5 : Mr. G. Amedius
Government Advocate

ORDER

[Order of the Court was made by R.MAHADEVAN, J.]

The petitioner has come forward with this writ petition praying to issue a Writ of Mandamus directing the respondents to regularize his service from the date of his temporary appointment on 10.03.2007 by absorbing his service to the Tamil Nadu Judicial Ministerial Service together with arrears of monetary benefits as paid to similar employees by considering his representation dated 21.02.2012, his reminder dated 27.01.2014 and the recommendations of the first respondent in his proceedings in Roc. No. 725/2014/G2 dated 13.05.2014 in the light of G.O. Ms. No.1482, Home (Courts-VII) Department dated 22.06.1987.

2. In the affidavit filed in support of the writ petition, it is stated by the petitioner that on 10.03.2007, he was appointed by the third respondent to the post of Office Assistant on temporary basis after his name was referred by



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the employment exchange concerned. It is further stated that from the date of such appointment, for 9 years, he worked as Office Assistant and thereafter, he was forced to work as a Scavenger as well as Office Assistant. The grievance of the petitioner is that he is working on temporary basis till date, without his service being regularised. It is also the grievance of the petitioner that by virtue of G.O. Ms. No.1482, Home (Courts-VII) Department dated 22.06.1987, similarly placed persons have been appointed in the office of the Administrator General and Official Trustee, High Court, Madras, however, he was grossly discriminated. The petitioner therefore submitted representations on 21.02.2012 and 27.01.2014 to regularise his service. On the basis of the representations of the petitioner and others, the first respondent in his proceedings dated 13.05.2014, recommended to the Government to regularise their services. However, till date, the petitioner is working on temporary basis. Therefore, the petitioner has filed this writ petition.

3. On the other hand, the learned standing counsel for the first respondent drew the attention of this Court to the counter affidavit filed by the first respondent wherein it is stated *inter alia* that the petitioner was appointed on 10.03.2007 in Family Court, Chennai. During the year 2012, the petitioner along with others submitted a representation for regularising their services and



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it was forwarded by the Principal Judge, City Civil Court, Chennai by stating that they have gained considerable years of experience in the post and their services will be helpful to enable the Family Court to function without any interruption. On the basis of such a report received from the Principal Judge, City Civil Court, the first respondent in his letter dated 13.05.2014 recommended to the Government to absorb the petitioner and other employees on regular basis. It is further stated that in the meantime, the Government issued GO Ms. No.195, Home (Courts-II) Department dated 09.03.2018 sanctioning 12 additional posts for maintaining the Children Centre, Mediation Centre and Counselling Room in the Family Courts. On receipt of GO Ms. No.195 dated 09.03.2018, the Principal Judge, Family Court, Chennai in his letter dated 15.05.2018 requested the High Court to address the Government to absorb the petitioner and others who are working for a long time on daily wage basis. Accordingly, a letter dated 27.09.2018 was sent to the Government for absorbing the petitioner and three other employees on regular basis. However, the Government in the letter dated 23.07.2020 has stated that the post of Office Assistant shall be filled up by direct recruitment or recruitment by transfer from the employees under Class IV of the Tamil Nadu Basic Service as per Rule 3 of the Special Rules for Tamil Nadu Basic Service and refused to absorb the petitioner and others. The Government letter dated 23.07.2020 was



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placed before the then Staff Grievance Redressal Committee for the Subordinate Courts and the Honourable Committee suggested that the High Court shall proceed with recruiting candidates to the sanctioned posts as per the existing Service Rules.

4. The learned counsel for the first respondent further stated that one Tmt. G. Manjula Devi, who has submitted her representation along with the petitioner herein, has filed WP No. 24499 of 2021 for a Mandamus directing the respondents therein to regularise her service from 10.03.2007, the date on which she was appointed to the post of Attender on temporary basis. By order dated 18.03.2022, this Court directed the respondents to regularise her service from the date of sanction of the post with all consequential benefits. Pursuant to the order dated 18.03.2022, the first respondent by proceeding dated 13.04.2022 requested the Government to issue necessary orders regularising the service of Tmt. G. Manjula Devi from the date of sanction of the post, but till date, order of the Government is awaited.

5. We have heard the learned counsel for the petitioner, the learned Standing Counsel for the respondents 1 to 3, the learned Government Advocate for the respondents 4 and 5 and perused the materials placed.



6. The learned counsel for the petitioner submitted that in identical circumstances, the Division Bench of this Court passed an order dated 18.03.2022 in the Writ Petition No. 24499 of 2021 filed by one Tmt. G. Manjula Devi. In Para No.3 of the said order, the Division Bench of this Court observed as follows:

“9. We find that the regularisation could not have been made in absence of sanctioned post, but now the sanctioned posts are available and therefore only the High Court recommended for regularisation of service of the petitioner. It is the State Government which denied the regularisation on the ground that at the time when the petitioner was appointed, there was no sanctioned post available. It is without realising that the court made the appointment of the petitioner by calling for names from the employment exchange, in anticipation of the sanctioned post because without adequate number of employees, the court cannot smoothly work. It is also in the knowledge of everyone that the sanction of post takes long time until then the court-s work cannot be hampered and thereby, in anticipation of the sanctioned post, the appointments are given. It is also the fact that subsequently the post was sanctioned, thus, at least from the date of sanction of the post, the petitioner would be entitled to regularisation, but that has not been given despite the fact that as per Rule 10-A of the Tamil Nadu Subordinate Service Rules, any post not falling under the purview of the Public Service Commission, can be filled up by calling the name of candidates from the employment exchange, which per se was applied for appointment of the petitioner.

Looking to the facts aforesaid, we allow the writ petition with a direction to the respondents to regularise the service of the petitioner from the date of sanction of the post and it would be with all consequential benefits. There will be no order as to costs.”



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7. By pointing out the order dated 18.03.2022 passed by the Division Bench of this Court, the learned counsel for the petitioner prayed for issuing appropriate direction to the respondents to regularise the service of the petitioner from the date of sanction of the post with all consequential benefits.

8. It is not in dispute that the petitioner was appointed on 10.03.2007 through employment exchange. After rendering about 7 years of service, the petitioner, along with others, submitted representations to the Principal Judge, City Civil Court, Chennai seeking to regularise their services. The representation received from the petitioner along with others, was forwarded by the Principal District Judge, City Civil Court, Chennai with his recommendation stating that the services of the petitioner and others are indispensable inasmuch as they have gained sufficient experience in their work and it is very much required for the smooth functioning of the Family Court. On the basis of such recommendation, the first respondent, in his letter dated 13.05.2014, recommended to the Government to regularise the services of the petitioner and others. However, it was rejected by the Government on the ground that the post of Office Assistant has to be filled up through direct recruitment. It is needless to mention that even after the temporary appointment of the petitioner and others, several posts have been sanctioned



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by the Government, without absorbing the petitioner and others in regular post, who are working for more than a decade on temporary basis. In this context, WP No. 24499 of 2021 was filed by G. Manjula Devi with an identical prayer, as sought for by the petitioner in this writ petition. The Division Bench of this Court, in the order dated 18.03.2022 passed in WP No. 24499 of 2021 mentioned supra, directed the appellants therein to regularise the service of the petitioner therein from the date of sanction of the post with all consequential benefits. The order dated 18.03.2022 passed by the Division Bench of this Court has to be extended to the petitioner as well, who is similarly placed like the petitioner in WP No. 24499 of 2021. In such view of the matter, this writ petition stands disposed of in terms of the order dated 18.03.2022 passed in WP No. 24499 of 2021. Accordingly, the respondents are directed to regularise the service of the petitioner from the date of sanction of the post and pay all consequential benefits. No costs.

[R.M.D., J] [M.S.Q., J]

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Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation : Yes / No



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