



W.P.No.12090 of 2020

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2023

CORAM:

THE HONOURABLE Mr.JUSTICE BATTU DEVANAND

W.P.No.12090 of 2020

and

W.M.P.No.14827 of 2020

Jeyamma

.. Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep., by its Principal Secretary,
Animal Husbandry, Dairy and
Fisheries Department,
Secretariat, Chennai-600 009.
- 2.The Director,
Directorate of Animal Husbandry and
Veterinary Service,
DMS Complex, 3rd Floor Block 2,
Annasalai, Teynampet,
Chennai-600 018.
- 3.The Joint Director of Animal Husbandry,
District Animal Husbandry & Veterinary Services,
Hosur, Krishnagiri District.
- 4.The Assistant Director,
Animal Husbandry & Veterinary Services,
Krishnagiri District.

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the impugned government order viz., G.O.Ms.No.117, Animal Husbandry, Dairy and Fisheries Department, dated 28.08.2008 issued by the first respondent herein and quash the same in so far relates to regularizing the service of the petitioner's husband from the date of issuance of government order and not from the date of his initial appointment and further direct the respondents to regularize the service of the petitioner's husband from the date of his initial appointment viz., 08.07.2000 with all consequential benefits viz., refixation of scale of pay, seniority and family pension etc.

For Petitioner : Mr.V.Suthakar

For Respondents : Mr.G.Nanmaran
Special Government Pleader

ORDER

Heard Mr.V.Suthakar, learned counsel for the petitioner and Mr.G.Nanmaran, learned Special Government Pleader appearing for the respondents. Perused the materials available on record.



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2. The case of the petitioner is that her husband was initially appointed as casual labour on 07.09.1986 in Animal Husbandry Department. After completion of number of years as casual labour, the petitioner's husband approached the Tamil Nadu Administrative Tribunal and obtained certain directions for regulation of his services. After that, the petitioner's husband was appointed as Animal Husbandry Assistant with effect from 08.07.2000 and while he was in service, he died in harness.

3. The grievance of the petitioner is that though her husband was appointed as Animal Husbandry Assistant, his services were not regularized on the ground that specific government order is required for relaxation of age, reservation and educational qualification. At that stage, the Government of Tamil Nadu has issued G.O.(Ms).No.117, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 28.08.2008, granting regularization to several casual employees from the date of issue of the Government Order, i.e., 28.08.2008 and not from the date of their original appointment. The petitioner's husband gave several



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representations from 2008 onwards to the respondents to give regularization from the date of initial appointment. As the respondents failed to take any action, the petitioner is constrained to file this writ petition.

4. A counter affidavit has been filed on behalf of the respondents.

5. Learned counsel appearing for the petitioner would submit that the petitioner's husband was initially appointed as casual labour and based on the policy decision of the Government, his service was regularized vide G.O.(Ms).No.117, dated 28.08.2008. Learned counsel for the petitioner further submits that under the circumstances, several similarly situated persons filed writ petitions before this Court challenging G.O.(Ms).No.117, dated 28.08.2008, insofar as it denies the regularization from the date of their initial appointment and the time scale of pay and consequential denial of the annual increment from the said date. Learned counsel for the petitioner would submit that the issue involved in this writ petition is covered by the decision of a learned Division Bench of this Court in W.A.Nos.226 and 491 of 2012, dated 05.11.2013.



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6. Learned Special Government Pleader appearing for the respondents would submit that the petitioner is not entitled for any relief as prayed for in the writ petition. However, with regard to the order passed by the learned Division Bench as stated *supra*, learned Special Government Pleader would submit that the issue raised in the writ appeals is identical as that of the issue raised in the present writ petition.

7. On hearing the submissions of the learned counsel appearing for either side and upon careful perusal of the entire material on record, it is appropriate to extract hereinunder the relevant portion of the decision of the learned Division Bench, dated 05.11.2013 in W.A.Nos.226 and 491 of 2012:

“14.For the foregoing reasons, the orders of the Writ Court in W.P.No.26753 of 2008 and 17559 of 2009 dated 28.09.2011 and 06.07.2011 respectively are set aside and the writ appeals are allowed. The respondents are directed to regularise the services of the appellants in the post of Animal Husbandry Assistant with effect from 21.08.1997 and 16.06.1999



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respectively i.e. the date of appellants' joining in the regular post of Animal Husbandry Assistant and grant all the monetary benefits. If for any period, the appellants had been ousted for want of vacancy, the appellants shall not be entitled to any monetary benefit during that period but the same shall be taken into account for continuity of service. The respondents are directed to comply with the order within a period of four months from the date of receipt of a copy of the judgment. No costs."

8. On careful perusal of the same, in my considered view, it would equally govern the issue now raised by the petitioner in the present writ petition as such this Court is bound by the decision of the learned Division Bench. Since the issue raised in this writ petition is squarely governed by the order passed by the learned Division Bench and also the learned counsel for the petitioner would submit that the Department has implemented the orders of the learned Division Bench in respect of several similarly placed persons, this Court does not see any justification for taking a different view in the matter.



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9. In view of the above, this Writ Petition is allowed with the following directions:

- i. The impugned order in G.O.(Ms).No.117, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 28.08.2008, is hereby set aside, insofar as it restricts regularization of service of the petitioner's husband with effect from the date of issue of the Government Order;
- ii. There shall be a direction to the respondents to grant regularization to the petitioner's husband from the date of his original appointment with all monetary benefits like grant of annual increment, except the arrears of pay etc.; and
- iii. The respondents shall complete the said exercise within a period of six weeks from the date of receipt of a copy of this order;

No costs. Consequently, connected miscellaneous petition is closed.

28.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
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BATTU DEVANAND, J.

abr

To

- 1.The Principal Secretary to Government,
State of Tamil Nadu,
Animal Husbandry, Dairy and
Fisheries Department,
Secretariat, Chennai-600 009.
- 2.The Director,
Directorate of Animal Husbandry and
Veterinary Service,
DMS Complex, 3rd Floor Block 2,
Annasalai, Teynampet, Chennai-600 018.
- 3.The Joint Director of Animal Husbandry,
District Animal Husbandry & Veterinary Services,
Hosur, Krishnagiri District.
- 4.The Assistant Director,
Animal Husbandry & Veterinary Services,
Krishnagiri District.

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