



WEB COPY



W.P.No.23826 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2023

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.23826 of 2021 and
W.M.P.No.25091 of 2021 and
W.M.P.Nos.12012 & 23906 of 2023

- 1.P.Sekar
- 2.V.Ansar Ali
- 3.K.Poonkodi
- 4.L.Sangeetha
- 5.P.Rameshkumar
- 6.C.Rajeswari
- 7.D.Sivakami
- 8.V.Chandra
- 9.K.Ravi
- 10.N.Sekar
- 11.R.Venkatesan

... Petitioners

Vs.

- 1.The Secretary to Government,
Revenue Department,
Government of Tamil Nadu,
Fort St.George,
Chennai 600 009.
- 2.The Commissioner of Revenue
Administration / Principal Secretary,
Ezhilagam Building,
Chepauk, Chennai 600 005.



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3.The Chief Electoral Officer /
Principal Secretary to Government,
Public (Election -V) Department,
Secretariat, Chennai 600 009.

4.The District Collector,
Namakkal District, Namakkal.

5.The District Collector,
Salem District, Salem.

6.The District Collector,
Kanyakumari District, Nagercoil.

7.The District Collector,
Krishnagiri District, Krishnagiri.

8.The District Collector,
Kancheepuram District,
Kancheepuram.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to letter No.16840/Ele.V/2016-14, dated 19.11.2019 passed by the third respondent as communicated by letter in Na.Ka.No.Service 4(1)/49677/2014, dated 13.08.2020 passed by the 1st respondent and quash the same and consequently, direct the respondents to regularise the services of the petitioners from 2005 with all consequential, monetary and other benefits.

For Petitioners : Mr.K.Gnanasekar

For Respondents : Mr.G.Nanmaran,
Special Govt. Pleader for RR 1,2,4 to 8
Mr.Niranjan Rajagopalan for R3



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ORDER

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus to call for the records relating to letter No.16840/Ele.V/2016-14, dated 19.11.2019 passed by the third respondent as communicated by letter in Na.Ka.No.Service 4(1)/49677/2014, dated 13.08.2020 passed by the 1st respondent and quash the same and consequently, direct the respondents to regularize the services of the petitioners from 2005 with all consequential, monetary and other benefits.

2. Heard Mr.M.Gnanasekar, learned counsel for the petitioners and Mr.G.Nanmaran, learned Special Government Pleader for the respondents 1,2,4 to 8 and Mr.Niranjan Rajagopalan, learned counsel for R3.

3. The petitioners have been appointed as a Junior Assistants on consolidated pay in the year 2005. The petitioners' services were extended from time to time for several years and they were in continuous employment until their retirement. Similarly placed persons who have been appointed as Junior Assistants in other Departments have been



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regularised in the Government service. But the services of the petitioners have not been regularised. Hence the petitioners have filed a Writ Petition in W.P.No.27684 of 2012 for seeking regularisation of their services with effect from the year 2005 which is from the date of appointment with all monetary benefits and absorb them in the post of Junior Assistant. The following direction has been given in the above said Writ Petition:

"14. In view of the Article 41 and 43 of the Constitution of India, the Government must ensure issuing proper direction to the concerned authorities in cases where the persons, like the petitioners whose services have been utilised for nearly a decade are not given proper employment with time scale of pay. It is not only in element but also complying with the principles of natural justice. In the light of the observation made in the judgment, I am of the view that the respondents are directed to pass orders within a period of three months from the date of receipt of a copy of this order."

4. The subsequent Writ Appeal filed challenging the above said order has also been dismissed. Since the direction given by the Court was



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not complied, a contempt petition came to be filed and subsequently, the third respondent has passed an order by rejecting the representation of the petitioners for regularisation. In the impugned order, it is mentioned that there is no rule or provision to regularise the services of the Junior Assistants appointed on consolidated pay.

5. However, the learned counsel for the petitioners submitted that similarly placed persons who have been appointed on consolidated pay in the other departments have been regularised and the petitioners alone were discriminated. The petitioners have been appointed through Employment Exchange by undergoing a thorough selection process and they cannot be said to be the persons coming through back door entry as observed in Umadevi's case. The attention of this Court was drawn to the regularisation so made for similar such employees who have been engaged during Tsunami Disaster from 01.03.2005 to 31.05.2009 in G.O.Ms.No.332 dated 16.07.2010.

6. The learned counsel for the petitioners submitted that though those employees have served only for four years, the Government had



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regularised their services by virtue of the above said Government Order.

But in the case of the petitioners, though they have served for more than a decade, their services were not regularised. In fact, the third respondent has recommended the regularisation of the petitioners taking into account of their long services. Despite the same, their regularisation was not granted for the only reason that there is no rule governing regularisation of appointments made on consolidated pay.

7. When the Government is passing such Government Orders for similarly placed persons in other Departments and regularising their services every now and then without bothering about any rule in place, but on consideration of the long services and also the circumstances in which their appointments have been made, the impugned order ought not to have been passed by citing a lame reason that there is no rule in place. The third respondent has recommended for regularisation taking into consideration of the various aspects including their employment process in Employment Exchange and the services rendered by them for more than a decade.



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8. The Government was considerate to regularise the services of similar such persons who have been appointed during Tsunami and who had worked only for four years. The same yardstick could have been adopted in the case of the petitioners also and an order could have been passed for regularising their services without making much fuss about the technicalities. Hence, the impugned order is liable to be set aside.

9. In the result, this Writ Petition is allowed and the impugned orders passed by the third respondent in letter No.16840/Ele.V/2016-14, dated 19.11.2019 as communicated by letter in Na.Ka.No.Service 4(1)/49677/2014, dated 13.08.2020 passed by the second respondent are set aside and the respondents are directed to consider the regularisation of service of the petitioners by taking into consideration of the similar such persons whose services have already been regularised on various occasions. Consequently, connected miscellaneous petitions are closed. No costs.

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Index : Yes
Internet : Yes/No
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R.N.MANJULA, J.

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To

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