



W.P.No.14731 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:21.07.2023

Delivered on: 28.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No.14731 of 2018

&

W.M.P.No.5650 of 2020 &17411 of 2018

A.K.Vijayageetha

... Petitioner

Vs

1. Principal Secretary to Government
Directorate of Rural Development
& Panchayat Raj Department
Secretariat Complex, Chennai-600 009

2.The Commissioner
Rural Development and Panchayat Raj
Directorate of Rural Development & Panchayat Raj Department
Panagal Building, Chennai-600 015

3.The Director
State Institute of Rural Development (SIRD)
and Panchayat Raj
Maraimalai Nagar, Kanchipuram District- 603209

4.Secretary to Government of India
Ministry of Rural Development
Block No.11, 6th Floor, CGO Complex,
Lodhi Road, New Delhi- 110 003

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent pertaining to G.O.D. No.575 Rural Development and Panchayat Raj (PR.3) Department dated 30.11.2017 and quash the same as illegal arbitrary and non est in law and consequently direct the 1st respondent to regularise the service of the petitioner as Core faculty in management in the State Institute of Rural Development (SIRD) from the date of initial appointment i.e. 27.9.2007 and grant all other attendant service and monetary benefits within the time stipulated by this Honourable Court.

For Petitioner : Mrs.Dakshayani Reddy, Senior Counsel
for
Mr.G.Arumugaraja

For Respondents : Mr.V.Arun, AAG, Assisted by
Mr.T.M.Rajangam, Govt. Adv for R1 to 3
Mr.C.Samivel, (SCGSC) for R4

ORDER

The petitioner seeks issuance of a Writ of Certiorarified Mandamus to quash the impugned G.O.Ms.No.575, Rural Development and Panchayat Raj dated 30.11.2017 and to consequently direct the 1st respondent to regulate the



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service of the petitioner as Core faculty in the management in the State Institute of Rural Development (SIRD) from the date of initial appointment i.e. 27.9.2007 and grant all attendant service and monetary benefits.

2. The facts as set out by the petitioner in the affidavit in support of the Writ Petition are that the petitioner completed her graduation degree in the year 1997 and post graduation degree in 1999. The State Institute of Rural Development (SIRD) published a recruitment notification on 07.01.2007, for which the petitioner applied for the post of Core faculty in management, being possessed of all essential qualifications set out in the notification. The petitioner was appointed and she was called for an interview and subsequently having cleared the interview she was appointed as a Core faculty (Management) on 27.09.2007 on contract basis. Though the petitioner was initially appointed for a period of two years on contract basis her contract was extended from time to time until July 2015. The 3rd respondent granted the petitioner all service benefits on par with the other faculty employed in SIRD. The Executive Committee of the Institute also recommended for



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regularizing the services of the petitioner. One another person by name Dr.C.Villi was appointed as a Core faculty in (Training skill and methodology), similar to the petitioner, on contract basis. His services were regularized by the State Government. However, the said Dr.C.Villi filed W.P.No.25636 of 2005 to seek regularization of his service from the date of his initial appointment. The said Writ Petition was allowed on 11.02.2011 against which the State preferred W.A.No.2184 of 2011 and the Hon'ble Division Bench of this Court by judgment dated 25.04.2012 dismissed the Writ Appeal. Though the State Government preferred an S.L.P. in S.L.P.No.10937 of 2013, the same also came to be dismissed on 08.08.2014. Subsequently, the services of Dr.C.Villi came to be regularized from the date of his initial appointment, together with all consequential monetary benefits. The petitioner seeking the same treatment, filed W.P.No.30605 of 2012 before this Court, pending which the 3rd respondent did not extend the petitioner's contract and therefore the petitioner filed W.P.No.4884 of 2013, challenging the order of termination. Subsequent to filing of W.P.No.4884 of 2013, the 3rd respondent extended the contract of employment of the



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petitioner by issuing orders extending her tenure from time to time. Both the Writ Petitions were heard by this Court on 02.06.2017 and this Court disposed of both the Writ Petitions in the following manner.

“ 11. In the result, the writ petitions are disposed of and the respondents 1 to 3 are directed to forward necessary proposal for regularisation of the services of the petitioner to the 4th respondent in terms of the order dated 11.02.2011 made in WP.No.25636/2005 and the judgment dated 25.04.2012 made in WA.No.2184/2011 [cited supra] to the 4th respondent within a period of eight weeks from the date of receipt of a copy of this order and upon receipt of the same, the 4th respondent shall take note of the said orders and judgment and pass appropriate orders on the recommendation / proposal to be submitted by the respondents 1 to 3 on merits and in accordance with law and pass orders within a further period of ten weeks thereafter and communicate the decision taken, to the petitioner as well as to the respondents 1 to 3. No costs. Consequently, the connected miscellaneous petitions are closed.”



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3. It is the grievance of the petitioner that despite the above specific orders passed by this Court, the 1st respondent has rejected the petitioner's request for regularization citing unreasonable and untenable grounds. When the 4th respondent is providing 100% funding support for five Core faculty members of SIRD and when the 4th respondent had positively recommended the petitioner's regularization of service and agreed to incur the expenditure, according to the petitioner, erroneous rejection of her request came to be passed, which is challenged in the Writ Petition.

4. The respondents 1 to 3 have filed a counter stating that the petitioner was employed on contract basis and cannot claim regularization as a matter of right, especially Core faculty which is not a sanctioned regular post. It is also stated that the funding support from the Government of India would be borne by the Ministry only for a period of 3 years and therefore it is not feasible for regularizing the services of the petitioner. Pursuant to directions of this Court, the 4th respondent has filed a report enclosing relevant documents. In the letter dated 20.02.2023, the Under Secretary to the Government of India,



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Ministry of Rural Development has confirmed that funding has not been stopped and Ministry would provide 100% funding to SIRD's for a maximum of seven core faculty members. It is also made clear that the Ministry has already requested the State Government to fill up the post on regular basis clarifying that the Ministry has no role in appointment/recruitment of faculty members.

5. Heard Mrs.Dakshayani Reddy, learned Senior Counsel for Mr.G.Arumugaraja, appearing for the petitioner, Mr.V.Arun, learned Additional Advocate General, assisted by Mr.T.M.Rajangam, Government Advocate for Respondents 1 to 3 and Mr.C.Samivel, SCGSC for R4.

6. Learned Senior counsel for the petitioner would take this Court through the documents filed along with the typedset, especiallay the judgment in W.A.No.2184 of 2011 at paragraph 11, where even in the case of the other person, Dr.C.Villi, the respondents herein had taken a categorical stand that they are implementing the directions issued by the Central Government and



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that it is a Central Government project and that funds are allotted by Government of India, Ministry of Rural Development. The Division Bench of this Court has taken note of the fact that the Central Government never filed a Writ Appeal against the order of the learned single Judge in W.P.No.25636 of 2005 and therefore the Appeal filed by the respondents herein was dismissed and they were directed to implement the order of the learned Single Judge dated 11.02.2011.

7. Learned Senior counsel would also refer to the typedset filed by the counsel for the 4th respondent viz., the Central Government, where in the communication dated 20.02.2023, in respect to the present Writ Petition, the Under Secretary, Government of India has stated that the Ministry has requested all State Governments to fill up the posts on regular basis besides also confirming the fact that the Ministry will provide 100% funding for maximum of 7 Core Faculty members and that the funding has not been stopped. Learned Senior counsel would conclude her submissions relying on the common order of the learned Single Judge dated 02.06.2017 in



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W.P.Nos.30605 of 2012 and 4884 of 2013 and would reiterate the findings rendered therein, to fortify her submissions that the Writ Petition has to be necessarily allowed.

8. Per contra, learned Additional Advocate General would submit that the petitioner was appointed only on contract basis and her contract was renewed from time to time. He would also submit that the order in the case of Dr.C.Villi would not apply to the facts of the present case, especially the Writ Petitioner, since the appointment of Dr.C.Villi stood on an entirely different footing. Dr.C.Villi was very much in service, having rendered 13 years of service when he was appointed. However, on the contrary, the petitioner herein was admittedly terminated from service on 22.10.2012 and therefore, she could not take shelter under the orders passed in favour Dr.C.Villi in the Writ Petition, which also came to be complied by the respondents. The learned Additional Advocate General would also submit that the petitioner, post her termination, without any protest or demur, accepted for being requested to work on a temporary basis. He would also submit that the post is



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not a sanctioned post and the petitioner was admittedly a contract employee on a temporary basis and her case cannot be considered and prayed for dismissal of the Writ Petition.

9. Having to the submissions advanced on either side, first and foremost, a similarly placed faculty has been given recognition with effect from the date of initial appointment. The order passed by this Court has become final and subsequently the respondents have also implemented the said order. The petitioner's case is no different. She is also a faculty of the SIRD, though from a different department. There can be no discrimination when it comes to the petitioner especially when an identical faculty member service has been regularized from the date of initial appointment. The very same defence that it was a contract employment and the State Government did not possess sufficient funds etc., were unsuccessfully canvassed in the earlier Writ Petition. Infact, the more important factor is the Writ Petition filed by the Writ Petitioner herein in W.P.Nos.30605 of 2012 and 4884 of 2013, the operative portion of the said order has already been extracted herein



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above. Given the import and letter and spirit of the said order, there is absolutely no discretion bestowed on the respondents 1 to 3 to reject the case of the petitioner. It is clear from the order of this Court that the respondents 1 to 3 were directed to pass orders recommending the petitioner's case in line with the earlier orders passed in W.P.No.25636 of 2005 confirmed in Writ Appeal and subsequently challenged by way of S.L.P, unsuccessfully. In the light of the positive direction from this Court, it is not open to the respondents 1 to 3 to reject the petitioner's claim and is infact in clear violation of the order passed by this Court on 02.06.2017.

10. This Court is unable to accept the submissions of the learned Additional Advocate General because even Dr.C.Villi was appointed only on contractual basis. The entire argument of the learned Additional Advocate General focuses on the point that Dr.C.Villi was in service at that point of time when the orders came to be passed in his favour which were favorably considered and on the contrary, the petitioner, admittedly was terminated and was subsequently given appointment on temporary nature, again on



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contractual basis. Unfortunately, these arguments cannot be pressed into service in the present Writ Petition. The order passed by the learned Single Judge in W.P.Nos. 30605 of 2012 and 4884 of 2013 dated 02.06.2017, this Court has categorically held at paragraph 7 as follows:

“ 7. In the considered opinion of the Court, the claim made by the petitioner is similar to that of Dr.C.Villi, the writ petitioner in WP.No.25636/2005, wherein the respondents 1 to 3 herein were also parties and this Court, vide final order dated 11.02.2011 in the said writ petition, made a positive direction, directing the respondents to regularise the services of Dr.C.Villi, retrospectively from the date of his initial appointment with consequential benefits and has also noted that a recommendation has already been made by the respondents 1 to 3 therein to the authority concerned for regularisation and in the light of the said stand, the petitioner's service is to be regularised as that of Dr.C.Villi. ”

11. Thereafter, this Court has referred to the fact that the respondents had challenged the order passed in W.P.No.25636 of 2005 by way of Writ



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Appeal in W.A.No.2184 of 2011 and that the said Writ Appeal was also dismissed. Infact, the further Appeal to the Hon'ble Supreme Court was also dismissed on 08.08.2014. This Court also took note of the fact that it was the specific plea of the Special Government Pleader appearing for the respondents in the said Writ Petition that they would have to forward the proposal to the Central Government seeking regularization of the present petitioner's service since the entire funding of the was by the Central Government. Only after all these discussions, the learned Single Judge has allowed the Writ Petition in the manner as already set out herein above viz., para 11 of the said order which has been extracted herein above already.

12. Without filing an Appeal against the said order of the learned Single Judge, all the arguments now advanced by the learned Additional Advocate General are unfortunately canvassed only to be rejected. The order of the learned Single Judge in W.P.Nos.30605 of 2012 and 4884 of 2013, has become final and the lis was between the very same petitioner herein and the respondents and therefore, the respondents are estopped from taking a



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contrary stand, stating that the petitioner's case cannot be considered.

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13. The principle of resjudicata equally applies in Writ proceedings as well. The very same objections were taken before this Court in the earlier round of Writ proceedings and only thereafter a positive direction came to be passed by this Court on 02.06.2017. Infact, at the time of passing the said order, the statutory respondents have categorically represented to the Court that they would have to forward the case of the Writ Petitioner herein to the Central Government seeking regularization of the petitioner's service. Therefore, the case of the respondents cannot be accepted, not only on the ground of resjudicata but also applying the principles of estoppel.

14. The further contention of the learned Additional Advocate General is that the post being not a sanctioned post and if the petitioner is to be regularized, it would result in financial strain for the respondents 1 to 3. This argument also is not acceptable for the reason that the 4th respondent has clearly come on record and stated that they will be funding 7 faculty members



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in entirety (100%). Infact, the 4th respondent, as already referred to herein above, has also informed the State Governments to fill up these posts on a regular basis. That being the position, this Court is unable to see as to how there would be any financial strain on the respondents 1 to 3. In any event, as already discussed herein above, in view of the orders passed in W.P.Nos. 30605 of 2012 and 4884 of 2013, dated 02.06.2017, the respondents cannot take any new or different stand and they are bound to regularize the petitioner's service as Core faculty in management of SIRD from the date of her initial appointment i.e., 27.09.2007 and grant her all attendant service and monetary benefits.

15. Learned Additional Advocate General would submit that since the entire funding comes from the Central Government, the respondents have to get the approval of the Central Government viz., the 4th respondent. However, from the communication already discussed above, it is seen that the Central Government has made it abundantly clear that they have no role in appointing the faculty members to the SIRD's and it is only in the domain of the State



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Government to fill up the post on regular basis. In the same breath, the 4th respondent has also confirmed that funding continues and infact 100% support would be provided to as many as 7 core faculty members. In the light of the specific stand of the 4th respondent and the order passed by this Court on 02.06.2017, the impugned order passed by the respondents is clearly arbitrary and violative of the petitioner's rights. The petitioner is certainly entitled to being regularized as core faculty management from the date of her initial appointment viz., 29.07.2007, together with all attendant service and monetary benefits. The 1st respondent exceeded its authority, despite a positive direction issued by this Court, in rejecting the petitioner's claim.

16. Consequently, the Writ Petitioner is entitled to relief as prayed for. Accordingly, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed. The respondents shall take immediate steps to regularize the services of the petitioner from the date of her initial appointment, i.e., 27.09.2007 and grant her all consequent attendant service and monetary benefits. This exercise shall be completed within a period of six



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weeks from the date of receipt of a copy of this order.

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28.07.2023.

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Index:Yes/No

Neutral Citation:Yes/No

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To

1.The Principal Secretary to Government
Directorate of Rural Development
& Panchayat Raj Department
Secretariat Complex, Chennai-600 009

2.The Commissioner
Rural Development and Panchayat Raj
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P.B.BALAJI, J.,
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