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W.P.No.20984 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2023

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.20984 of 2023 and
W.M.P.No.20359 of 2023

P.Natarajan

... Petitioner

Vs.

1.The Secretary to Government,
Revenue Department,
Government of Tamil Nadu,
Fort St. George, Chennai 9.

2.The Commissioner of Revenue,
Administration/Principal Secretary,
Ezhilagam Building,
Chepauk, Chennai 5.

3.The Chief Electoral Officer,
Principal Secretary to Government,
Public (Election-V) Department,
Secretariat, Chennai 9.

4.The District Collector,
Office of the District Collector,
Erode, Erode District 638 011.

... 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



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of the third respondent in respect of the impugned order dated 19.11.2019 in Letter No.16840/Ele.V/2016-14 and quash the same and consequently direct the respondents to regularize the services of the petitioner from 2005 with all consequential, monetary and other benefits.

For Petitioner : Mr.S.S.Swaminathan

For Respondents : Mr.G.Nanmaran,
Special Govt. Pleader for R1, R2 & R4
Mr.Niranjan Rajagopalan for R3

ORDER

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus to call for the records of the third respondent in respect of the impugned order dated 19.11.2019 in Letter No.16840/Ele.V/2016-14 and quash the same and consequently direct the respondents to regularize the services of the petitioner from 2005 with all consequential, monetary and other benefits.

2. Heard Mr.S.S.Swaminathan, learned counsel for the petitioner and Mr.G.Nanmaran, learned Special Government Pleader for the respondents 1,2 & 4 and Mr.Niranjan Rajagopalan, learned counsel for R3.



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3. The petitioner has been appointed as a Junior Assistant on consolidated pay in the year 2005. The petitioner's service was extended from time to time for several years and he was in continuous employment until his retirement. Similarly placed persons who have been appointed as Junior Assistants in other Departments have been regularised in the Government service. But the service of the petitioner has not been regularised. Hence the petitioner has filed a Writ Petition in W.P.No.27684 of 2012 for seeking regularisation of his service with effect from the year 2005 which is from the date of appointment with all monetary benefits and absorb him 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 petitioner 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



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*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 rejected. Since the direction given by the Court was not complied, a contempt petition came to be filed and subsequently, the third respondent has passed an order by rejecting the representation of the petitioner 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 petitioner submitted that similarly placed persons who have been appointed on consolidated pay in the other departments have been regularised and the petitioner alone was discriminated. The petitioner has been appointed through Employment Exchange by undergoing a thorough selection process and he cannot be said to be a person coming through back door entry as observed in Umadevi's case. The attention of this Court was drawn to the



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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 petitioner submitted that though those employees have served only for four years, the Government had regularised their services by virtue of the above said Government Order. But in the case of the petitioner, though he served for more than a decade, his service was not regularised. In fact, the third respondent has recommended his regularisation taking into account of his long service. Despite the same, his 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



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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 various aspects including the petitioner's employment process in Employment Exchange and the service rendered by him for more than a decade.

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 petitioner also and an order could have been passed for regularising his service 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 order dated 19.11.2019 in Letter No.16840/Ele.V/2016-14 passed by the third respondent is set aside and the respondents are directed to consider the regularisation of service of the petitioner by taking into



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consideration of the similar such persons whose services have already been regularised on various occasions. Consequently, connected miscellaneous petition is closed. No costs.

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Index : Yes

Internet : Yes/No

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R.N.MANJULA, J.

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