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1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2023

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.4951 of 2017
and W.M.P.No.5180 of 2017

P. Lakshmi

.. Petitioner

Vs.

1. Tamil Nadu Pollution Control Board,
Rep.by its Chairman,
No.76, Mount Salai,
Guindy,
Chennai – 600 032.

2. Member Secretary
Tamil Nadu Pollution Control Board,
No.76, Mount Salai,
Guindy,
Chennai – 600 032.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the concerned records from the 2nd respondent bearing Memo No.TNPCB/Per/P7/10068/2013 dated 08.11.2012 insofar as the petitioner is concerned and to quash the same and consequently, direct the respondents to regularize the services of the petitioner from 16.10.1996 being the date of initial engagement in the post of Junior Environment Assistant.



For Petitioner .. Mr.Balan Haridas
For Respondents .. Ms.Vijayakumari Natarajan

ORDER

This writ petition has been filed in the nature of Certiorarified Mandamus calling for the records of the 2nd respondent, the Member Secretary, Tamil Nadu Pollution Control Board, Chennai, relating to Memo No.TNPCB/Per/P7/10068/2013 dated 08.11.2013 so far as the petitioner is concerned and to quash the same and direct the respondents to regularise the service of the petitioner from 16.10.1996, which was the date of initial appointment in the post of Junior Environmental Assistant.

2.In the affidavit filed in support of the writ petition, it had been stated that the petitioner who is a graduate had registered her name in the Employment Exchange. Her name was also sponsored to the respondents for the post of Junior Environmental Scientist and an interview was also conducted and she was appointed on 16.10.1996. Initially she was paid consolidated pay and thereafter, on representations given, her appointment was regularized by an order dated 11.04.2001, but not from 16.10.1996, the



date of initial appointment, but from 28.10.1999. Complaining that this order had put her to much disadvantage, the present writ petition has been filed.

3.The learned counsel for the respondents, had however, justified the said appointment on the basis of G.O.Ms.No.74, Personnel and Administrative Reforms (F) Department dated 27.06.2013. That would apply to regularisation of service of the daily wage employees working in Government departments, who render ten years of service as on 01.01.2006 by appointing them in the time-scale of pay of post in accordance with the service conditions.

4.The said Government order would not apply to the facts of this case, particularly, as the petitioner was appointed on her name being sponsored to the Employment Exchange to a sanctioned post of Junior Environmental Scientist and had been working not on daily wages, but on consolidated pay. She was working in an approved post.



5. Therefore, the applicability of G.O.Ms.No.74 as contended by the respondents, does not withstand the scrutiny of this Court. But, however, the issue is no longer res-integra, as there has been judgment of the Division Bench of this Court in a batch of matters / ***W.A.Nos.528, 529 and 721 to 733 of 2016, the Member Secretary, Tamil Nadu Pollution Control Board, Chennai and another Vs.K.Renganathan***. The Division Bench had examined the case of the respondent therein, who had been appointed as electrician and who contended that his regularisation should be from the date of initial employment, but it was contended otherwise, by the appellant therein / Tamil Nadu Pollution Control Board. Let me extract the order of the Division Bench in entirety, since it is directly applicable to the facts of this case.

“3. The short issue, which arises for consideration in these Writ Appeals is with respect to the date of regularization.

4. It is the case of the private respondents that, they should be regularized from the date of their initial appointment and not from the date of order of regularization, whereas, the appellants contended that, their services should be reckoned only from the date of regularization.



5. *The learned counsel appearing for the appellants submitted that the case of one S.Aruldoss, which was taken note of by the learned Single Judge, stands on different footing. The post of electrician was created on 23.12.1996, in which, the said S.Aruldoss was appointed. Whereas, the writ petitioners' appointment comes under the ministerial category. Secondly, it is submitted that, the private respondents, having accepted the benefits of regularization, it is not open to them to contend that their services should be reckoned from the date of initial appointment.*

6. *The learned counsel for the respondents submitted that the issue involved in this Writ is no longer res integra. The said S.Aruldoss filed a Writ Petition No.9969 of 2010 and obtained an order in his favour. Even in the said Writ Petition very same defence was taken, which was allowed and thereafter, the order was implemented. Not only that, similarly placed persons filed W.A.Nos.226 and 491 of 2012 before the Hon'ble Division Bench of this Court, and the Division Bench by a judgment dated 04.10.2010, allowed the Writ Appeals with certain directions, which was also implemented by passing appropriate Government Orders in G.O.Ms.No.114 of Animal Husbandry, Dairying and Fisheries (AH6) Department, dated 06.03.2014. Therefore, the appellants contended that the present Writ Appellants are liable to be dismissed,*



particularly, when, initial entry was proper, viz., through the employment exchange and after satisfying the requisite qualification, which is exclusive, however to reserve.

7. Considering the above said submission, we do not find any merit in these Writ Appeals. The learned Single Judge had rightly taken note of the decision rendered in the case of S.Aruldoss, who filed a Writ Petition No.9969 of 2010 and got an order, which was subsequently implemented. The post of electrician was regularized only subsequent to the initial appointment. Secondly, even in the Writ Appeals filed by similarly placed persons in W.A.Nos.226 and 491 of 2012, the Division Bench of this Court passed the following order:-

13.The name of the said S.Mathiyalagan is found in Sl. No.25 of G.O.Ms.No.117 dated 28.08.2008. The names of the appellants in W.A.No.226 of 2012 viz., S.Rajangam and N.Thirukasu are found in Sl.Nos.140 and 141 (Ramanathapuram Region). Likewise, the name of the appellant in W.A.No.491 of 2012 viz., K.Krishnasamy is found in Sl.No.147. When the respondents have regularised the services of S.Mathiyalagan (Sl. No.25 in G.O.Ms.No.117 dated 28.08.2008) in the post of Animal Husbandry Assistant with effect



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from 01.07.1999 i.e. the date of joining in the regular post of Animal Husbandry Assistant and issued G.O.Ms.No.49 dated 20.02.2013, the respondents are not justified in denying the benefit to the appellants, contending that they are not similarly placed. When the appellants are similarly placed as that of S.Mathiyalagan, the respondents cannot seek to deny the benefit of regularisation of the appellants with effect from the date of joining in the regular post of Animal Husbandry Assistant.

14. We are of the view that the appellants are similarly placed as that of S.Mathiyalagan and the appellants are entitled to be regularised with effect from the date of joining in the regular post of Animal Husbandry Assistant i.e. 21.08.1997 and 16.06.1999 respectively. The orders of the Writ Court cannot be sustained and are liable to be set aside. 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 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. The aforesaid order was given effect to by passing appropriate Government Orders in G.O.Ms.No.114 (mentioned supra), which is not disputed by the appellants. What the private respondents seek is only regularization of service from the date of their initial appointment. They are not seeking for salary with retrospective effect. Perhaps, they will be entitled to future benefits

9. In the light of the above discussion, we are of the view that no grounds are made out by the appellants to interfere with the order passed by the learned Single Judge. Accordingly, the Writ Appeals are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.



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6.The Division Bench had affirmed an earlier order passed by the learned Single Judge and had observed that the respondents therein had sought regularisation from the date of initial appointment, and that such relief should be granted.

7.The ratio laid therein directly applies to the petitioner herein and the writ petition therefore stands allowed. The impugned order is set aside and a direction is given to the respondents to issue fresh proceedings regularising the service of the petitioner from the date of initial employment i.e., from 16.10.1996. Such proceedings to be issued within a period of sixteen weeks from the date of receipt of a copy of this order. No costs. Consequently, connected writ miscellaneous petition is closed.

20.09.2023

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Index:Yes/No

Internet:Yes/No

Neutral Citation:Yes/No

Speaking order:Yes/No



To

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1. The Chairman,
Tamil Nadu Pollution Control Board,
No.76, Mount Salai,
Guindy,
Chennai – 600 032.

2. The Member Secretary
Tamil Nadu Pollution Control Board,
No.76, Mount Salai,
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11

C.V.KARTHIKEYAN,J.

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