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W.P.No.30172 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2023

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.30172 of 2023

K.Jothi Basu

... Petitioner

Vs.

1.The Secretary to Government,
Rep by the Secretary,
Environment and Forest Department,
Fort St. George, Chennai – 9.

2.The Principal Chief Conservator of Forest,
Head of the Forest Department,
Velachery Rd, Guindy,
Chennai, Tamil Nadu 600032.

3.The District Forest Officer,
Dharmapuri Forest Division,
Dharmapuri.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to regularise the service of the petitioner as Data Entry Operator from the date of initial appointment in the light of W.A.No.2731 of 2018, dated 31.08.2023 confirmed in, Special Leave Petition No.10057 of 2022 dated 11.07.2022 implemented vide G.O.Ms.No.124 Environment Climate Change and Forest



(FR.3) Department dated 30.06.2023 with all consequential service and monetary benefits.

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For Petitioner : Mr.T.Dharani

For Respondents : Mr.M.Bindran
Additional Government Pleader

ORDER

The relief sought for in the present writ petition is to direct the respondents to regularise the service of the petitioner as Data Entry Operator from the date of initial appointment in the light of W.A.No.2731 of 2018, dated 31.08.2023 confirmed in Special Leave Petition No.10057 of 2022 dated 11.07.2022 implemented vide G.O.Ms.No.124, Environment Climate Change and Forest (FR.3) Department dated 30.06.2023 with all consequential service and monetary benefits.

2. The case of the petitioner is that she was appointed as a Mazdoor on 01.12.1999 in the 3rd respondent Office / Dharmapuri Forest Division, Dharmapuri. Subsequently, she was posted as Section Writer-Cum-Typist and directed to discharge her duties as Computer Operator, as she possesses Typewriting English (Higher) and Tamil (Lower) and also advanced Diploma



in Computer Application. She was working as Computer Operator in Morappur Forest Division for about 23 years and thereafter as Data Entry Operator in the Morappur Forest Division.

3. Further the case of the petitioner is that she was working under the control of the respondents. She has been selected and appointment as Data Entry Operator for more than 24 years as daily wages in Forest Corporation and Forest Department. The respondents ought to have extended the benefits as conferred upon by the Government through G.O.Ms.No.22, Personnel and Administration Department dated 28.02.2006. Therefore, similarly placed persons have also approached this Court and this Court directed to regularise the service of these type of casual labourer, who have rendered 10 years of services in the said post and various departments have chosen to implement the order in its letter and spirit by regularising the service of the individuals on completion of 10 years of such services and have also extended all the consequential benefits, including arrears of pay etc. Since the orders of the Court directing such regularisation have been confirmed by the Division Bench and upheld by the Apex Court, thereby, the law of the land being that casual labour, who have rendered 10 years of services are entitled for



regularisation. However, the case of the petitioner has not been considered.

Hence, the petitioner is constrained to move this present writ petition.

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4. The learned counsel for the petitioner states that the petitioner has been working in the respondents office from the year 1997 and she is entitled for the benefit of the Governmental orders. He further contended that the petitioner has made several request for regularisation before the respondents and the same were not considered by them and the post in which the petitioner has been engaged a sanctioned post of Data Entry Operator. Thereafter, the service ought to be made regular and non-regularisation of petitioner's service for more than 23 long years is in violation. However, non-regularisation of service for more than 10 years is violation of Articles 14, 16 and 21 of the Constitution of India. Therefore, non-regularisation of petitioner's service is illegal and against the Governmental order issued by the respondents. In this regard, a proposal was made by the 2nd respondent vide proceedings in Na.Ka.No.2329/2020 dated 12.07.2021 to the Conservator of Forest, Dharmapuri for the purpose of regularising the service of the petitioner in the Department.



5. It is further contended that one Mr.R.Ramalakshmi, similarly placed person in the Forest Department filed a writ appeal in W.A.No.2731 of 2018 before this Court seeking direction to regularise the service as Data Entry Operator from the date of her initial appointment with all consequential service and monetary benefits. The Hon'ble Division Bench of this Court allowed the writ appeal with the following direction:

“8. In the light of the above narrated facts, we are of the view that when the continuity of employment without any break of the appellant is not disputed, we cannot also take a different view in this matter, except, following the similar view taken by this Court in the above referred cases. In such circumstances, the order of the learned single Judge is set aside and the Writ Appeal is allowed. The respondents are directed to regularize the service of the appellant as Computer Operator from the date of her initial appointment with all consequential attendant benefits. The said order has to be complied with by the respondents 1 and 2 or any other Competent Authority, within a period of 12 weeks from the date of receipt of a copy of this judgment. However, there shall be no order as to costs. Consequently, connected Civil



WEB COPY

W.P.No.30172 of



Miscellaneous Petition with direction is also closed.”

6. In view of the above order passed by the Hon'ble Division Bench of this Court, the Special Leave Petition No.10057 of 2022 was filed by the respondents, which was dismissed by the Hon'ble Supreme Court of India on 11.07.2022. Thereafter, the respondents have implemented order of this Court dated 31.08.2022 vide G.O.Ms.No.124, Environment, Climate Change, Forest (FR.3) Department dated 30.06.2023 as similarly placed person, the petitioner is also entitled for the same relief as granted to the said R.Ramalekshmi. Thereafter, the petitioner submitted a representation on 05.08.2022 to the respondents through proper channel and the same was not considered by them.

7. The learned Additional Government Pleader appearing on behalf of the respondents would submit that the case of the petitioner will be considered only based on merits and by taking into consideration of her service rendered to the department.

8. Heard Mr.T.Dharani, the learned counsel appearing for the



petitioner, and Mr.M.Bindran, learned Additional Government Pleader for the respondents and perused the materials available on record.

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9. Considering the submissions of the learned counsel appearing for the petitioner and learned Additional Government Pleader for the respondents and in view of the order passed by the Hon'ble Supreme Court of India in Special Leave Petition No.10057 of 2022, this Court is inclined to consider the case of the petitioner and thereby directing the respondents to consider the claim of the petitioner to regularise the service rendered by her as Data Entry Operator from the date of initial appointment on merits and in accordance with law. The said exercise is directed to be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

10. With the above said directions, this Writ Petition stands disposed of. No costs.

17.10.2023

Jeni
Index : Yes / No
Speaking order : Non-speaking order
Neutral Citation : Yes / No



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WEB COPY



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V.BHAVANI SUBBAROYAN, J.

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