



W.P.No.15956 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **05.09.2023**

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

WP No.15956 of 2017

S.Rajagopal

... Petitioner

-Vs-

1. The Government of Tamil Nadu
Rep. by its Secretary, Adi Drawidar & Tribal
Welfare Department, Fort St. George, Chennai – 600 009.
2. The Director of Adi Drawidar & Tribal Welfare
Chepauk, Chennai – 600 005.
3. The District of Adi Dravidar Welfare Officer
Trichirappalli, Trichirapalli District.
4. The District Adi Dravidar Welfare Officer
Perambalur, Perambalur District.
5. The Special Tahsildhar
Adi Dravidar Welfare, Perambalur District.
6. The Accountant General of Tamil Nadu (A & E)
Teynapet, Anna Salai, Chennai -600 018. ... Respondents



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PRAYER: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records relating to the order passed by the fourth respondents in his proceedings Na.Ka.No.II/2004/2016 dated 10.02.2017 and quash the same and direct the respondents 2 to 5 regularise the petitioner's service from 01.04.1977 and pay the Selection Grade Pay from 01.04.1987, Special Grade Pay from 01.04.1997 along with re-fixation of pension and retirement benefits and all other consequential benefits.

For Petitioner : Mr. V. Krishnamurthy
For Respondents : Mr. T.K.Saravanan
Government Advocate

ORDER

The Writ Petition has been filed in the nature of Certiorarified Mandamus seeking records relating to the order passed by the fourth respondents in his proceedings Na.Ka.No.II/2004/2016 dated 10.02.2017 and quash the same and direct the respondents 2 to 5 regularise the services of the petitioner from 01.04.1977 and pay the Selection Grade Pay from 01.04.1987, Special Grade Pay from 01.04.1997 along with re-fixation of pension and retirement benefits and all other consequential benefits.



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2. The petitioner had studied upto 5th Standard and was appointed as Assistant Cook in Adi Dravidar Government Hostel from 01.04.1977 consequent to a fortune which befell on the petitioner owing to the absence of one Selvaraj, who did not report to duty without any intimation from 31.03.1977. Had Selvaraj joined duty and had reported for duty, the petitioner would never have got employment. The petitioner was then given appointment by the Warden of the Hostel. This appointment was subject to approval of the third respondent / The District of Adi Dravidar Welfare Officer, Trichirappalli, Trichirapalli District.

3. By proceedings dated 16.08.1977, the third respondent approved the appointment. It was on temporary basis on consolidated pay. Thereafter another Cook in the said Hostel died on 23.12.1997. This again opened a window to the petitioner herein and consequent to the unfortunate death of the said Cook, the petitioner got the fortune of being promoted to the post of Head Cook from 21.12.1977. The petitioner moved to selection grade from 12.02.1991 on completion of 10 years of service. This date was



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given because the petitioner was brought into regularised service on time scale with effect from 21.01.1981.

4. The learned counsel for the petitioner however contended that the petitioner should be considered as having been brought into regular time scale of pay with effect from the date of his initial appointment, namely, 01.04.1977.

5. The only Government Order which is to be interpreted in this particular case is G.O.Ms.No. 250 [Adi Dravidar and Tribal Welfare (ADW. IV) Department issued on 09.11.1992. That Government Order came to be issued consequent to the fact that in all the hostels, Cooks and others were employed on adhoc basis on consolidated pay and thereafter ratification or approval of such appointments were sought to be termed as regular appointment.



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6. The Government on careful consideration had taken a decision to regularise those appointments. There was an earlier Government Order in this case, namely, G.O.Ms.No. 312 Employment Exchange Department dated 30.11.1987. In that particular Government Order, the cut off date was given as 8.7.1980 and those who had been appointed prior to 08.07.1980 owing to their long term of service were regularised. By G.O.Ms.No. 250, Adi Dravidar and Tribble Welfare (ADW. IV) Department, dated 09.11.1992, which was issued on 09.11.1992, this particular date of 08.07.1980 was pushed forwarded to 21.01.1981. Therefore, everybody who had been appointed prior to 21.01.1981 whether through employment exchange or with or without educational qualification or even over aged were all regularised. This regularisation was with effect from 21.01.1981.

7. The petitioner was originally appointed as 01.04.1977 and therefore, he had been appointed before 21.01.1981 and therefore, he would be brought into regular service with effect from 21.01.1981.



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8. There was a second category since the Government Order had been issued in the year 1992 that persons, who had been similarly appointed on 21.01.1981. They were regularised from the date of their initial employment.

9. The learned counsel for the petitioner strenuously argued stating that the petitioner should be considered in the second category and that therefore, he must be regularised from the date of initial employment. But unfortunately, the petitioner had been in service prior to 21.01.1981. The number of persons, who benefited from the regularisation, who had been appointed prior to 21.01.1981 were 677 Cooks. The petitioner is one of them. The learned counsel for the petitioner claims that he is one of the other set namely, those, who had been appointed after 21.01.1981. They were 599 in number. That is not applicable to the petitioner since he was appointed prior to 21.01.1981 on 01.04.1977. Therefore, his regulation can only be from 21.01.1981.



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10. The relevant portion of the Government Order is extracted below:-

“(i) the services of the 677 cooks appointed in Annexure I to this Government Order who were appointed before 21.01.1981 with effect from 01.01.1981 ie., the date from which they were brought into regular establishment in relaxation of rules 10(A) a of the General Rules for the Tamil Nadu State and Subordinate Service and 6(c) of the adhoc rules issued to the post of cook as the case may be as indicated in column 6 of the Annexure I to this Government Order.

(ii) the services of the 599 cooks appointed in annexure II to this Government Order who were appointed on or after 21.01.1981 with effect from the column (5) in the Annexure II to this Government order in relaxation of the rule 10 (A) a of the General Rules for the Tamil Nadu State and Subordinate Services and rule 6 (c) of the adhoc rules issued to the post of cooks as the case may be



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indicated in column 6 in Annexure II to this Government order.”

11. The petitioner falls under 7(i) above since he had been appointed before 21.01.1981. There is no infirmity in the order. He had been granted necessary special grade and selection grade pay on competition of the required years of service. He should be satisfied with that.

12. The petitioner had also been paid all monetary benefits as required. No further orders are required. The Writ Petition stands dismissed. No costs.

vsg

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Index:Yes/No

Neutral Citation:Yes/No

To

1. The Secretary
The Government of Tamil Nadu
Adi Drawidar & Tribal
Welfare Department, Fort St. George, Chennai – 600 009.



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2. The Director of Adi Drawidar & Tribal Welfare
Chepauk, Chennai – 600 005.
3. The District of Adi Dravidar Welfare Officer
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C.V.KARTHIKEYAN,J.



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