



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction

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Friday, the Thirtieth day of June Two Thousand and Twenty Three

PRESENT

The Hon`ble Mrs.Justice S.SRIMATHY

SUB A(MD). No.108 of 2023

in

cont p(MD)No.207 of 2023

K. Mathayee,

...Petitioner/Petitioner

Vs

S.K.Prabakar, I.A.S.,
The Secretary Home (Courts Iv) Department
Government of Tamilnadu , Chennai.

... Respondent/Contemnor

Prayer in sub A(MD). 108/ 2023 :-

This Sub Application filed under section 151 of CPC. to pass an order to re-open the Contempt Petition (MD). No. 207 of 2023 closed on 16.02.2023 .

Prayer in CONT P(MD). 207/ 2023 :-

Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971 to punish the contemnor / 1st Respondent for their willful dis-obedience on the order of this Honourable Court made in W.P.(MD).No.18126 of 2014 dated 16.10.2019 .

Prayer in WP(MD). 18126/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this

Court To issue a Writ of Certiorarified Mandamus, to call for the records of the 1st

<https://www.mhc.tn.gov.in/judis>

Respondent s order in G.O. (D) No. 190 Home (Courts - IV) Department dated



19.03.2014 and set aside the same and consequently direct the 1st respondent to regularize the petitioner's service as Office Assistant / Masalchi in a time scale of pay from the date of appointment on 27.07.2005 under the 4th respondent.

ORDER:- This Sub Application Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Ms. Hajamohideen, Advocate for the Petitioner and of Mr.M. Lingadurai, Special Government Advocate for the respondent(s), this Court made the following order:

This Sub application has been filed to re-open the contempt petition in CONT.P(MD)No.207 of 2023 alleging that the respondents have not complied with the order in letter and spirit.

2. The petitioner was appointed in the respondents Department as Office Assistant/Masalchi. The petitioner has sought regularization and the same was declined through G.O.D190 Home (Courts-IV) Department, dated 19.03.2014. Aggrieved over the same, the petitioner has filed this writ petition challenging the said GO.

3. After considering the claim of the petitioner, this Court had held that the respondents cannot decline the regularization. Therefore, this Court directed the respondents to regularize the service of the petitioner dehorn the G.O.MS.No.74 P

& AR (F) Department, dated 27.06.2013. After passing this Order, the respondents have considered the petitioner's case sympathetically and granted regularization.



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4. The contention of the petitioner is that on the date of completion of 10 years the petitioner is entitled for regularization. The High Courts had held in several cases that the regularization is not a right and regularization is not automatic. The regularization is within the domain of the Government. The Government should take a policy decision to regularize any employee. It is a settled proposition that any regularization will come into effect from the date of passing of order of regularization and not from the date of original appointment or from the date of completion of 10 years.

5. In the present case, the regularization order was passed in the year 2019. The contention of the petitioner is that since the said G.O. came into force in the year 2014 and the petitioner has right to claim regularization 2014 onwards and such a plea cannot be entertained.

6. The further contention of the petitioner is that the government has assured for granting regularization. This Court is of the considered opinion any assurance of the Government cannot confer any right on the petitioner. Therefore, there is no contempt as alleged.

7. Hence, this Sub Application is closed.

Sd/-

Assistant Registrar(CS III)

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1. The Secretary Home (Courts Iv) Department
Government of Tamilnadu , Chennai.

2. The Special Govt. Pleader,
Madurai Bench of Madras High Court, Madurai.

+1CC to A.Haja Mohisdeen, Advocate (SR-31830[F] dated 03/07/2023)

BEFORE THE MADURAI BENCH OF
MADRAS HIGH COURT

ORDER DATED : 30/06/2023

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ORDER
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SUB A(MD). No.108 of 2023
in
cont p(Md)207of 2023

Giving direction and etc.
as stated within.

KSR(07.09.2023) 4P/ 4C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.