



W.P.(MD)Nos.6138 to 6144 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.01.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)Nos.6138 to 6144 of 2015

and

M.P(MD)Nos.3,3, 3, 3, 2, 2 & 2 of 2015

W.P(MD)No.6138 of 2015

- 1.C.Lekshmi
- 2.T.Felsi
- 3.N.Vimala
- 4.G.Uma

... Petitioners

VS

- 1.The Principal Secretary to Government,
State of Tamil Nadu,
Labour and Employment (R2) Department,
Fort St. George,
Chennai-600 009.
- 2.The Secretary to the Government,
State of Tamil Nadu,
Personal and Administrative Department,
Fort St. George,
Chennai-600 009.



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3.The Director,
Directorate of Employment and Training
Guindy,
Chennai-600 032.

4.The Assistant Director,
District Employment Office,
Nagercoil-629 001,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in G.O.Ms.No.8 Labour and Employment (R2) Department, dated 24.01.2014 on the file of the first respondent and quash the same as illegal to the extent of paragraph no.7 directing the incumbants/petitioners holding the posts on consolidated pay of Rs.4,000/- to continue to draw the consolidated pay till the posts are filled regularly and consequently to direct the respondents to regularise the services of the petitioner in the post of Typist within the time stipulated by this Court.

For Petitioners : Mr.G.Karthick
for M/s.T.Lajapathiroy

For Respondents : Mr.R.Sureshkumar
Additional Government Pleader



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COMMON ORDER

This writ petition is filed to quash the G.O.Ms.No.8, Labour and Employment (R2) Department, dated 24.01.2014 with a consequential relief to direct the respondents to regularize the services of the petitioner with a time scale of pay.

2. The petitioners were appointed through employment exchange office following the roster under recruitment rules. In the meanwhile, several other temporary typists who were working in the Revenue Department were sought to be regularized by calling them to appear for the Special Test to be conducted by the TNPSC for the sake of absorption of their services vide G.O.Ms.No.61 dated 22.05.2009. A simultaneous recruitment was also carried out by the respondents to other departments, subsequently they were regularized under G.O.Ms.No.4 dated 03.01.2007. The petitioners' recruitment is under G.O.Ms.No.72, Labour and Employment (R2) Department, dated 25.08.2006, therefore, the respondents claims that G.O.Ms.No.4 is not applicable to the petitioners. The claim of the



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petitioners is that both the recruitment under G.O.Ms.No.4 and G.O.Ms.No.72 are one and the same. Therefore, the petitioners are claiming to treat them on par with other recruitment and allowing the petitioners to participate in the special competitive exam so that the petitioner and the similarly placed persons can be absorbed.

3. This issue was considered by the Learned Single Judge of this Court and this Court allowed the writ petition. Aggrieved against the said order, the government had filed writ appeals. The Division Bench of this Court in W.A(MD)Nos.748, 753 and 772 of 2019 has directed the respondents to regularize the services of the writ petitioners, who were working for long time and it would be appropriate for the respondents to conduct a special competitive examination to absorb them in the regular posts by giving them relaxation with respect to age.

4. The Division Bench of this Court had passed the following order:

“13. The learned counsel for the petitioners placed heavy reliance on G.O.Ms.No.8, Labour and Employment (R2) Department dated 24.01.2014 by which Typists employed like the petitioners were given



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time scale of pay. The said Government Order cannot be made applicable to the writ petitioners herein. In para No.7 of the said Government Order, it was clearly stated that those who were holding the regular time scale of pay of the posts sanctioned temporarily in G.O.Ms.No.72, dated 25.08.2006 were permitted to draw pay, dearness allowance, City Compensatory Allowance, House Rent Allowance, City Compensatory. In the present case, the petitioners were not appointed temporarily in a sanctioned post warranting them to be brought within the purview of G.O.Ms.No.72 dated 25.08.2006 or G.O(Ms) No.8 Labour and Employment (R2) Department dated 24.01.2014. At the same time, it must be stated that the writ petitioners are also working as Typists and the nature of work discharged by the writ petitioners are akin to those who are covered under G.O.Ms.No.8 dated 24.01.2014. Further, on the date when G.O.Ms.No.8 dated 24.01.2014 was issued by the Government, the writ petitioners were very much working in the temporary post. Further, the services of the writ petitioners is temporarily extended from time to time. Therefore, as rightly pointed out by the learned single Judge, the writ petitioners, who are performing the very same nature of work akin to those who are in the permanent rolls are entitled to time scale of pay till such time their services are regularized. Accordingly, the appellants are directed to pay time scale of pay to the writ petitioners. Further, for the purpose of regularizing the services of the writ petitioners, who are working for a long time, it would be appropriate for the appellants to conduct a special competitive examination to absorb them in the regular posts by giving them relaxation with respect to age. We accordingly direct the appellants to conduct a special competitive examination for the writ petitioners for the purpose of absorbing them in regular posts at the earliest.



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5. In view of the above judgment, this Court is inclined to allow the writ petitions and the respondents are directed to conduct the special competitive examination for the petitioners and similarly placed persons, who were recruited under G.O.Ms.No.72, Labour and Employment (R2) Department, dated 25.08.2006 and absorb the petitioners in the regular vacancy. The said exercise shall be completed within a period of six (6) months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
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11.01.2023



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To

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S.SRIMATHY, J

am

Order made in
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