



WEB COPY



W.P.No.1102 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01.10.2024

PRONOUNCED ON : 23.10.2024

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.1102 of 2020

1. Sithapathy G
2. Habib Basha H

... Petitioners

-Vs-

1. The State of Tamil Nadu
Rep. by Additional Chief Secretary
to Government,
Secretariat Home Department,
Fort St. George,
Chennai – 600 009.

2. The Director General of Police,
Tamil Nadu,
Dr. Radhakrishnan Salai,
Mylapore,
Chennai – 600 004.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent Rc.No.87292/A&R(1)/2018 dated 02.08.2018, quash the same and direct the respondents to give effect to the regularization of services of the petitioners in the post of Data Entry Operators with effect from 14.02.2005 and to upgrade their posts by re-



W.P.No.1102 of 2020

designation as Assistant Programmers commensurate with their qualifications in terms of G.O.Ms.No.339 Finance (PC) Department dated 26.08.2010 and grant them all monetary benefits or in the alternative to reckon their services with effect from 14.02.2005 for fixation of seniority in the Tamil Nadu Ministerial service and to promote them to the post of Assistant and Superintendent with retrospective effect from the date of such promotion of their immediate junior appointed as Junior Assistant/Typist subsequent to 14.02.2005 and to grant all consequential benefits to the petitioners within a limited time frame as deem fit.

For Petitioners : Mr.M.Ravi
For Respondents : Mr.P.Kumaresan
Additional Advocate General
Assisted by Mr.V.Manoharan
Additional Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the second respondent dated 02.08.2018, thereby rejected the request of the petitioners seeking retrospective regularization with effect from 14.02.2005 and promote them to the post of Assistant Programmers.



W.P.No.1102 of 2020

2. The petitioners were appointed as Data Entry Operators on compassionate appointment. They were brought into time scale of pay with effect from 01.05.2007. The post of Data Entry Operators were brought into the Tamil Nadu General Subordinate Service Rules and framed Adhoc Rules vide government order in G.O.Ms.No.220 Home (Pol.XV) Department dated 18.02.2016. Thereafter, their services were regularized with effect from the date on which they were brought into time scale of pay i.e., on 01.05.2007. Though they are rendering computer related work other than the data entry operating, they are exercising the duties of Junior Assistants and Typist also. However, they are stagnated in the same post without any promotion.

3. Therefore, the government accepted the recommendation of one man commission to rationalize the nomenclature, education qualifications and scale of pay of information technology employees in various departments and passed order in G.O.Ms.No.339 Finance (Pay Cell) Department dated 26.08.2010. Further directed all the heads of the departments to send necessary proposal for proper implemetation of the said government order. As per the government order, the petitioners are



W.P.No.1102 of 2020

qualified and eligible for being re-designated by upgradation as Assistant programmers, commensurate with their education qualification and also for revision of scale of pay. In fact, their services were regularized only with effect from 01.05.2007 instead of their initial appointment. Therefore, the petitioners submitted representation and the same was not considered.

4. Hence, they preferred a writ petition in W.P.No.34368 of 2017 seeking regularization of services in the post of Data Entry Operator from their initial appointment viz., 14.02.2005 and re-designate their post as Assistant Programmer commensurate to their qualifications in terms of G.O.Ms.No.339 Finance (PC) Department dated 26.08.2010 with all consequential and monetary benefits. This Court by an order dated 03.01.2018, directed the respondents to consider the representation submitted by the petitioners and pass order in the light of the G.O.Ms.No.399 Finance (PC) Department dated 26.08.2010. However, without considering the said request, the petitioners were appointed as Typist by transfer of service on 01.09.2018 & 01.06.2018 respectively and rejected the representation submitted by the petitioners by an order



W.P.No.1102 of 2020

dated 02.08.2018, on the ground that there is no specific instructions in the government order in G.O.Ms.No. 339 Finance (PC) Department dated 26.08.2010, to promote the Data Entry Operator to the post of Assistant Programmer.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. The respondent filed counter and on the submission made by the learned Additional Advocate General revealed that both the petitioners were appointed as Data Entry Operator on compassionate ground. Both were wait listed for appointment and they were sent to nine months training and thereafter they were appointed as Data Entry Operator with effect from 14.02.2005. During the training period, they were paid stipend of Rs.1000/- per month and after completion of their training period, they were appointed temporarily as Data Entry Operators with a consolidated salary of Rs.2,500/-. Thereafter, they were brought into time scale of pay with effect from 01.05.2007.



W.P.No.1102 of 2020

7. In pursuant to the government order, the temporary post of Data Entry Operator in Police Department came into force with effect from 01.05.2007. However there was no order to regularize their service with retrospective effect i.e., from the date of their initial appointment. Thus, it is clear that as per the government order in G.O.Ms.No.989 Home (Pol. XV) Department dated 21.10.2002, the petitioners were sent for computer training programme for appointment as Data Entry Operator with effect from 14.02.2005. Therefore, during their nine months training period, they were paid stipend of Rs.1,000/- per month. After completion of their training period, they were appointed as Data Entry Operator with consolidate pay temporarily. Subsequently, as per the government order in G.O.(4D) No.52 Home (Pol. XV) Department, dated 22.06.2007, the services of all the Data Entry Operators in the police department have been brought under the time scale of pay with effect from 01.05.2007 and adhoc rules vide G.O.Ms.No.220 Home (Pol XV) Department dated 18.02.2016 have also been framed for the post of Data Entry Operator. Therefore, the service of the petitioners were regularized in the post of Data Entry Operator and they were brought into time scale of pay with effect from 01.05.2007.



W.P.No.1102 of 2020

8. Insofar as the re-designation to the post of Assistant programmer and promotion to the post of Assistant and Superintendent are concerned, it is the government policy to upgrade the Data Entry Operator as Assistant Programmer that too only on the proposal from the respective departments. Already the government ordered the Data Entry Operators be appointed as Junior Assistants/Typist according to their qualifications and the ratio of vacancy position. Therefore, there is no need to upgrade the Data Entry Operators as Assistant Programmers as far as police department is concerned.

9. Further, the government issued orders in G.O.Ms.No.339 Finance (PC) Department dated 26.05.2010 for uniform nomenclature, designation, educational qualification and revised scales of pay to the information technology employees. But the method of appointment, experience, promotional avenues etc., are different in each department. Each and every department are covered under their service rules. Therefore, the petitioners cannot compare their post with other departments. That apart, in the police department, there is no sanctioned post of Assistant programmer.



W.P.No.1102 of 2020

WEB COPY 10. In view of the above discussions, this Court finds no infirmity or illegality in the order passed by the second respondent and the writ petition is devoid of merits and liable to be dismissed. Accordingly, the Writ Petition stands dismissed. There shall be no order as to costs.

.10.2024
(1/2)

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No

rts



W.P.No.1102 of 2020

WEB COPY To

1. The Additional Chief Secretary
to Government,
State of Tamil Nadu,
Secretariat Home Department,
Fort St. George,
Chennai – 600 009.

2. The Director General of Police,
Tamil Nadu,
Dr. Radhakrishnan Salai,
Mylapore,
Chennai – 600 004.



WEB COPY



W.P.No.1102 of 2020

G.K.ILANTHIRAIYAN. J.

rts

ORDER IN
W.P.No.1102 of 2020

.10.2024
($\frac{1}{2}$)