



W.P.No.18518 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.02.2024

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.18518 of 2012

M.Annammal

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by The Secretary to Government,
Environment & Forests,
Secretariat,
Chennai.
- 2.The principal Chief Conservator of Forests,
15, Jeens Road,
Panagal Building,
Saidapet,
Chennai – 15.
- 3.The Conservator of Forests,
Vellore Circle,
Vellore.
- 4.The District Forest Officer,
Thirupathur District,
Thirupathur.

... Respondents

Writ Petition has been filed under Article 226 of Constitution of India
to issue a Writ of Certiorarified Mandamus calling for the records on the file



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of the fourth respondent in connection with the order passed by him in his procs.Na.Ka.No.9714/08.Pa3 dated 26.02.2009 and Na.Ka.No.3479/10Pa-3 dated 08.07.2010 and also on the file of the third respondent in connection with the order passed by him in his Proc.Na.Ka.No.16989/10 Pa1 dated 29.11.2010 and quash the same and direct the respondents to take the petitioner's mservice in the post of PG Assistant (Zoology) with effect from the date of her functioning, i.e., 01.05.1997 atleast notionally and grant all the consequential benefits of retirement benefits and pensionary benfits from 01.06.2012.

For Petitioner : Mr.R.Singgaravelan,
Senior Counsel

For Respondents : M/s.P.Vijayadevi,
Government Advocate

ORDER

The relief sought by the petitioner in this writ petition is to call for the records on the file of the fourth respondent in connection with the order passed by him in his procs.Na.Ka.No.9714/08.Pa3 dated 26.02.2009 and Na.Ka.No.3479/10Pa-3 dated 08.07.2010 and also on the file of the third respondent in connection with the order passed by him in his Proc.Na.Ka.No.16989/10 Pa1 dated 29.11.2010 and quash the same and



direct the respondents to take the petitioner's service in the post of PG Assistant (Zoology) with effect from the date of her functioning, i.e., 01.05.1997 atleast notionally and grant all the consequential benefits of retirement benefits and pensionary benefits from 01.06.2012.

2. Learned counsel for the petitioner submitted that the petitioner was initially selected for appointment to the post of Secondary grade teacher with B.Sc (Zoology) and B.Ed., qualification on merits and joined service on 07.12.1985 and thereafter she has passed M.Sc., (Zoology) in 1988-1989 and M.Ed., in 1989-1990 and promoted to the post of B.T.Assistant on 11.11.1992. As she was fully eligible to be appointed to the post of P.G.Assistant, she was not given any promotion, instead, she was posted as P.G.Assistant (English) from 1996. Even though there was a post of P.G.Assistant (Zoology) in Forest Higher Secondary School at Pudur Nadu, Thirupathur Taluk, Velur District. The petitioner was teaching classes for National Service Group (B Group) both Botany and Zoology from 30.04.1997 for +1 and +2 students, as per the order of the Headmaster of the School. Therefore, the petitioner has made a representation dated 28.09.1998



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to the Principal Chief Conservator of Forest, requesting him to permanently give her promotion to the post of P.G. Assistant in any one of the two vacancies.

3. Learned counsel for the petitioner would further submit that the petitioner was given incentive for producing 100% results in +2 examination, which was evidenced from the order of the District Forest Officer, Thirupathur Division dated 08.06.1999. Though she was asked to take classes for +1 and +2 students, she was not regularly promoted to the post of P.G.Assistant. Hence, she had filed an application before the Tamil Nadu Administrative Tribunal in O.A.No.5527 of 1999 for direction, directing the respondents to select the petitioner for appointment to the post of P.G.Assistant (Zoology) with effect from the date of her continuance in the post of P.G.Assistant (Zoology) i.e., from 30.04.1997 with all monetary and service benefits. The said application was disposed of by the Tribunal with a direction to dispose of her representation dated 11.01.1999 to 12.10.1999. On the basis of the said order, her representation was considered and the



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District Forest Officer has passed an order dated 09.03.2000, posting the petitioner as P.G.Assistant (Zoology) from the date of taking charge as a regular employee, though she had been serving in that post from 01.05.1997.

4. Learned counsel for the petitioner would further submit that on the basis of the above order, the petitioner was allowed to continue in service and then, she has retired from service on 30.09.2011 and had attained the age of superannuation on 31.05.2012 having been allowed to continue, till the end of the academic year. Even While, she was in service, she has made several representations to the forest authorities, requesting them to regularize her service as P.G.Assistant (Zoology) with effect from 01.05.1997 and the same was turned down arbitrarily by an order of the District Forest Officer dated 08.07.2010. Thereafter, she has made a representation to the Conservator of Forests for his review and then to the Principal Chief Conservator of Forest and to the Government on 11.01.2011 and 08.12.2011, respectively, however, there was no reply. Hence, the petitioner has come forward with the present writ petition.



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5. The counter affidavit was filed by the respondents on 05.10.2012.

Learned Government Advocate appearing for the respondents would submit that in the District Forest Officer order No.92/2000 dated 09.03.2000 Rc.No.5982/98 E3, it has been clearly mentioned that her services would be regularized in the Post of P.G.Assistant from the date she joins in the said post of P.G.Assistant (Zoology), sanctioned in G.O.Ms.No.206, Environment and Forests (FR-8), dated 12.09.1996. Accordingly her pay was fixed in the post of P.G.Assistant with effect from 10.03.2000 and her services were also regularized with effect from 10.03.2000. Thereafter, she has completed her probation on the Afternoon of 09.03.2001. Then, the petitioner got departmental transfer to Education Department. Hence, she was relieved from Forest Department and joined as P.G.Assistant in Education Department and retired from service on 30.09.2011.

6. Learned Government Advocate appearing for the respondents would further submit that the intention of the respondents is that the tribal students' education should not in any way be affected due to shortage of teachers.



Therefore, the petitioner was asked to take classes to the B Group students in Pudur Nadu Higher Secondary School from the academic year 1997 in the interest of tribal students' education. Accordingly, the petitioner also took the classes. Now, she claims that the services made in the post of B.T.Assistant should also be counted for regularizing her services in the said post is not at all justified.

7. Learned Government Advocate appearing for the respondents would further submit that the petitioner might have took classes for the +2 students from the academic year 1997 onwards, however, incentives were awarded as a gesture of felicitation with a view to encouraging the teaching community to work more enthusiastically. Further, the Tamil Nadu Administrative Tribunal in their direction vide O.A.No.5527 of 1999 dated 12.10.1999 has ordered that "The applicant is directed to send a copy of representation and on receipt of such representation, the first respondent is directed to consider the same and pass orders on merits within a period of four months."

7.1. Accordingly, the Conservator of Forests vide Ref.No.1498/99 B1



dated 12.01.2000, appointed the petitioner as P.G.Assistant (Zoology) temporarily and she has also joined in the said post on 10.03.2000. But, the petitioner is misleading this Court by submitting false information. The Tribunal had only given directions to consider the petitioner's representation on merits within a stipulated time and accordingly, she was promoted as P.G.Assistant and joined on 10.03.2000.

8. Learned Government Advocate appearing for the respondents would further submit that the petitioner might have possessed all the qualifications for the post of P.G.Assistant but her services could only be regularized only from the date she joins in the post of P.G.Assistant. Since, the petitioner was taking classes for the +2 students from 01.05.1997, her services cannot be regularized and because was working as B.T.Assistant and taking classes for the +2 students. Moreover in the appointment order itself it was clearly informed that her service would comes into effect from the date she joins in the post of P.G.Assistant. Hence, there is no question of in-discrimination and malafide motives in this case and the respondents have acted only as per the rules and regulations and as per the instruction of the Government.



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9. Heard the learned counsel on either side and perused the materials available on record.

10. It is an admitted fact that the petitioner was promoted to the post of B.T.Assistant on 11.11.1992 and posted as P.G.Assistant (Zoology) from 30.04.1997 onwards in the Forest Higher Secondary School at Pudur Nadu, Thirupattur, Vellore District. As per the order of the Head Master of the School, she was taking classes for National Service Group (B-group) both Botany and Zoology from the academic year 1997 for +2 students and thereafter, she has made several representations to permanently promote her to the post of P.G.Assistant in any one of the two vacancies. However, no order has been passed. Therefore, the petitioner has filed application before the Tamil Nadu Administrative Tribunal in O.A.No.5527 of 1999 to permanently promote her in the post of P.G.Assistant (Zoology) from 30.04.1997 with all monetary and service benefits and the same was disposed of on 12.10.1997 with a direction to dispose of the representations of the petitioner dated 11.01.1999 and 12.10.1999 respectively and as per the order,



the petitioner has been temporarily promoted to the post of P.G.Assistant (Zoology) on 09.03.2000.

11. The contention of the respondents is that the tribal students education should not any way be affected due to the shortage of teachers. Therefore, the petitioner was asked to take classes for B-group in Pudur Nadu Higher Secondary School in the year 1997 in the interest of tribal students education and the same is also evident from the counter affidavit filed by the fourth respondent.

12. It is pertinent to note that the petitioner was temporarily promoted as P.G.Assistant (Zoology) on 10.03.2000, pursuant to the order passed by the Tamil Nadu Administrative Tribunal dated 12.10.1999. It is also admitted by the respondents that the petitioner was taking classes for the +2 students from 01.05.1997 and her service can be regularized only from the date she joins in the post of P.G.Assistant and the service cannot be regularized, when she was working as B.T.Assistant and taking classes for the +2 students and the same was clearly mentioned in the appointment order



itself.

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13. In view of the above, it is crystal clear and evident that the petitioner was working as B.T.Assistant and was asked to take classes for +2 students (B-group) for Zoology and Botany only as per the order of the Head Master of the School and now, the respondents cannot deny her the regularisation as P.G.Assistant (Zoology) from 01.05.1997, since she was temporarily appointed to the post of P.G.Assistant (Zoology) only with effect from 10.03.2000 that too as per the order of the Tamil Nadu Administrative Tribunal dated 12.10.1999. Having extracted the work from 01.05.1997 to 19.03.2000 as P.G.Assistant (Zoology), it is not fair and proper on the part of the respondents to deny her the regularizatton as P.G.Assistant (Zoology) with effect from 01.05.1997.

14. It is also pertinent to note the contention of the respondents that the education of the Tribal students are not be affected in any way due to the vacancy and for that reason, the petitioner was asked to take classes to +2 students (B-Group) students with effect from 01.05.1997.



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Hence, by the service of the petitioner as P.G.Assistant (Zoology), the tribal students' education was not affected and it is also evident from the counter affidavit filed by the respondents.

15. The petitioner is entitled for regularization as P.G.Assistant (Zoology) with effect from 01.05.1997 and not from 10.03.2000, as per the order of the District Forest Officer dated 09.03.2000 pursuant to the instruction of the Conservator of Forest, dated 01.03.2000.

16. In view of the above factual matrix of the case, this Court is of the considered view that the impugned order passed by the fourth respondent in proceeding Na.Ka.No.9714/08.Pa3, dated 26.02.2009 and Na.Ka.No.3479/10Pa-3, dated 08.07.2010 and the order passed by the third respondent in proceedings Na.Ka.No.16989/10/pa1, dated 29.11.2010 is liable to be quashed and the same is hereby quashed.



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17. The respondents are directed to take petitioner's service in the post of P.G.Assistant (Zoology) with effect from the date of functioning i.e., 01.05.1997 atleast notionally and grant all the consequential benefits of retirement benefits and pensionary benefits from 01.06.2012, within a period of eight weeks from the date of receipt of a copy of this order.

18. In the result, the writ petition is allowed with the aforesaid observations and direction. No costs. Consequently, connected miscellaneous petition is also closed.

29.02.2024

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Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No



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To:

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Environment & Forests,
Secretariat,
Chennai.
- 2.The principal Chief Conservator of Forests,
15, Jeens Road,
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Chennai – 15.
- 3.The Conservator of Forests,
Vellore Circle,
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- 4.The District Forest Officer,
Thirupathur District,
Thirupathur.



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J.SATHYA NARAYANA PRASAD,J.

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