



WP No.9220 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

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L.Bakiyanathan : Petitioner

versus

- 1.The Central Administrative Tribunal
Represented by its Registrar,
Madras Bench,
Chennai-600 004.
- 2.Union of India,
Represented by Secretary to Government,
Ministry of Health and Family Welfare,
Nirman Bhavan,
New Delhi-110001.
- 3.The Director General of Health Services,
Nirman Bhavan,
New Delhi.



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4.The Central Leprosy Teaching and Research Institute,
Represented by its Director,
Chengalpattu,
Tamil Nadu -603 001.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorarified Mandamus calling for the records relating to the order of the first respondent dated 14.02.2020 in OA No.1661 of 2018, quash the same and consequently direct the fourth respondent herein to regularize the services of the petitioner from his initial date of appointment with all consequential benefits such as pension and gratuity.

For the Petitioner : Mr.C.Vigneswaran

For the Respondents : Mr.C.Samivel
Senior Panel Counsel
for respondents 2 to 4
first respondent-Tribunal

ORDER

(Order of the Court was made by *D.KRISHNAKUMAR, J.*)

This writ petition is filed for a Certiorarified Mandamus calling for the records relating to the order of the first respondent dated 14.02.2020 in OA No.1661 of 2018, and quash the same and consequently direct the fourth



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respondent herein to regularize the services of the petitioner from his initial date of appointment with all consequential benefits such as pension and gratuity.

2. Brief fact of the case:

2.1. The petitioner/applicant was originally appointed in the fourth respondent institution in the post of Watchman as early as 25.05.1998. The petitioner after being sponsored by the Employment Exchange was selected by the third respondent institution on casual basis after an interview conducted by them. Ever since the date of his initial appointment, the petitioner has been working in various departments of the third respondent institution as Watchman, Cook Assistant, Sanitary worker and Male Nursing Attendant. He has been working in the said posts for more than 15 years. Hence, he made representations to the respondent department seeking to regularize his service. The respondent Department, had rejected his claim on the ground that he did not have the minimum educational qualification. Challenging the same, the petitioner had filed the instant original application in OA No.1661 of 2018. The Tribunal, by order dated 14.02.2020, had



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disposed of the said original application with the following observations:

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In view of the above, it is held that the applicant cannot derive any benefit of past service for regularisation but subject to the following two aspects, he is entitled to be considered for appointment:-

a) After termination, either in the same place or in respect of any aligned function, respondents did engage any other person ignoring the entitlement of the applicant.

b) The applicant has not crossed sixty years of age.

The above exercise shall be carried out by the respondents within a period of three months from the date of receipt of a copy of this order and further action taken. In case, none has been so appointed, the fact of the same shall be intimated to the applicant.

2.2. Challenging the said order passed by the Tribunal, the petitioner has filed the present writ petition.

3. The learned counsel appearing for the respondents 2 to 4 submitted that in paragraph Nos.4.3 and 4.4 of the counter affidavit filed by the respondents 2 to 4 before the Tribunal, it is clearly stated that the petitioner herein was appointed as a daily wager against a leave vacancy and he could



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be considered for regularization only if he has put in continuous service of ten years. It is further stated that the respondents have to follow the recruitment rules while filling up a regular vacancy. The petitioner has not been appointed and worked in any single post against a direct vacancy but only on leave vacancy. Therefore, the request of the petitioner that he should be regularized was denied by the respondent and accordingly the petitioner could not be appointed in the regular vacancy. Therefore, he seeks to dismiss the writ petition.

4. The Tribunal had well considered the contentions of both sides and passed orders by observing that the petitioner/applicant is not correct in stating that he was appointed as casual labourer on daily wages against a permanent post. As per the Recruitment Rules, the petitioner/applicant has to fulfil the minimum educational qualification of 10th standard for becoming eligible to be appointed to a Group 'C' post. As the Group D post now stands merged with the Group C, the respondents contend that the petitioner could only be considered if he fulfills the educational qualification required for Group C. Further, in paragraph 11 of the order of the Tribunal,



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it is clearly stated that the petitioner has not acquired necessary educational qualification for appointment to the post of Cook. Hence, in the light of the decisions of the Hon'ble Supreme Court in the case of ***State of Karnataka vs. Umadevi*** reported in ***(2006) 4 SCC*** and also the decision in ***Secretary to Government, School Education Department, Chennai vs. R.Govindaswamy and Others*** reported in ***2014 (4) SCC 769***, the Tribunal came to the right conclusion that the petitioner is not entitled for regularization of service.

5. It is seen that the petitioner has not acquired minimum educational qualification for appointment to the post of Cook. Hence, the decision taken by the Tribunal in the light of the decisions rendered by the Hon'ble Supreme Court in the ***Uma Devi's*** case ***and R.Govindaswamy's*** case, is perfectly correct. Therefore, there is no force in the contention of the petitioner. Accordingly, nothing warrants for interference with the order of the Tribunal in OA No.1661 of 2018 dated 14.02.2020. There is no merit in the writ petition. In fine, the writ petition stands dismissed. There shall be no order as to costs. Consequently, WMP No.9758 of 2021 is closed.



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[D.K.K., J.] [K.B., J.]
28.06.2024

Index : Yes/No
Neutral Citation : Yes/No
mrn

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