



W.P.No.17331 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.03.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.17331 of 2021 and
W.M.P.No.18351 of 2021

J.Lavanya

... Petitioner

Vs.

1.The Principal Secretary to Government,
Industrial Department,
Secretariat, Chennai - 09.

2.The Manager (Personnel and Administration),
Tamil Nadu Magnesite Limited,
5/53, Omalpur Main Road,
Jakir Ammapalayam Post,
Salem 636 302.

3.The Assistant Manager (P&A) Addl. Charge,
Tamil Nadu Magnesite Limited,
5/53, Omalpur Main Road,
Jakir Ammapalayam Post,
Salem 636 302.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the entire records connected with the impugned order dated 07.07.2021 issued by the 2nd respondent by which the request for regularisation of service made by the petitioner is rejected and quash the same and consequently,



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direct the respondents to regularise the service of the petitioner as Junior Assistant / Typist in the respondent TNML.

For Petitioner : Mr.K.Thilageswaran

For Respondents : Mr.L.S.M.Hasan Fizal, AGP for R2&R3
Mr.S.Arumugam, GA for R1

ORDER

This Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus, to call for the entire records connected with the impugned order dated 07.07.2021 issued by the 2nd respondent (by which the request for regularisation of service made by the petitioner is rejected) and quash the same and consequently, direct the respondents to regularise the service of the petitioner as Junior Assistant / Typist in the respondent TNML.

2. Heard Mr.K.Thilageswaran, learned counsel for the petitioner Mr.L.S.M.Hasan Fizal, learned Additional Government Pleader for R2&R3 and Mr.S.Arumugam, learned Government Advocate for R1.



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3. The petitioner was appointed as Junior Assistant / Typist on contractual basis on 23.02.2015. However, the petitioner was terminated from service on 25.03.2020. The petitioner has filed this Writ Petition stating that her services have not been regularised so far, despite she has been in continuous employment under the third respondent.

4. The learned counsel for the petitioner submitted that the petitioner's name was sponsored through employment exchange and the petitioner had also participated in the selection process and she has been selected as one out of five candidates who were sponsored for the said post. It is further submitted that the services of similarly placed candidates have been regularised, but the petitioner alone was discriminated and she was terminated from 25.03.2020.

5. The learned Additional Government Pleader for the respondents 2 & 3 submitted that the petitioner's appointment was purely on temporary basis. The petitioner joined in the said post knowing pretty well that she cannot claim any permanency. The petitioner cannot seek



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back door entry without participating in the regular recruitment process.

It is further claimed that the appointment orders issued to some other candidates cannot be based for claiming appointment for the petitioner. It is clarified that in respect of others who have been given with appointment orders were recruited only through the selection process.

6. However, the learned counsel for the petitioner submitted that the appointment orders issued to other persons are also similar to that of the petitioner and their names have been sponsored through employment exchange only.

7. It is not in dispute that the petitioner has been in continuous employment in the third respondent for several years. It is needless to state that in public employment, no candidate shall take the benefit of getting an employment through back door entry without participating in the selection process done in accordance with law for permanent posting. However, the respondents appeared to have made certain appointments purely on the basis of interview. Some of the orders which have been



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produced by the petitioner in respect of others would show that they have been sponsored by the District Employment Office. The petitioner has also been sponsored through employment exchange and she has also attended interview along with other candidates in 5:1 ratio. If the respondents adopt the procedure of getting candidates for recruitment to the regular post only through employment exchange, there cannot be any discrimination be shown to the petitioner alone who had been in continuous service for several years.

8. The petitioner's case cannot be considered as that of back door entry appointment. As the second respondent was in the habit of recruiting the candidates for regular appointment through getting sponsorship from employment exchange and by way of calling candidates for interview and then select and the petitioner has also come through the same channel and participated in the selection process, there cannot be any discrimination in respect of the petitioner alone. In fact, from the year 2015, the third respondent has utilised the services of the petitioner as though she was an employee outsourced through manpower agency.



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Having such kind of practice would only show that it is for the purpose of escaping from the commitments of granting benefits to the regular employees.

9. In view of the above stated reasons, this Writ Petition is allowed and the impugned order dated 07.07.2021 issued by the 2nd respondent is set aside and the respondents are directed to regularise the service of the petitioner as Junior Assistant / Typist in the third respondent office. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
gsk

08.03.2024



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To

WEB COPY

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