



W.P.No.24482 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2024

CORAM :

THE HON'BLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.24482 of 2014

V.Agilandam

.. Petitioner

Vs.

1. Government of Tamil Nadu
Rep. by Secretary to Government
Revenue Department, Secretariat
Chennai 600 009.

2. The Principal Secretary/Commissioner
of Survey and Settlement
Survey House, Chepauk
Chennai 600 005.

.. Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for the records in Pro.Na.Ka.No.Na.3/25711/2011/LS dated 22.02.2012 to quash the same and to issue consequential directions to the 1st respondent to pass appropriate orders to regularize the service of the petitioner notionally with effect from 10/2/1982 in the post of Junior Draughtsman and to condone the break in service from 7/5/1982 to 31/7/1990 only for the purpose pension and to grant all consequential



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benefits to the petitioner.

For Petitioner	: Mr.S.Madhu Balaaji For Mr.M.Ravi
For Respondents	: Mrs.V.Yamuna Devi Special Government Pleader

ORDER

This writ petition is filed challenging the order dated 22.02.2012, whereby, the claim of the petitioner to regularise her services notionally with effect from 10.02.1982 in the post of Junior Draftsman without any break in service from 07.05.1982 to 31.07.1990 was rejected.

2. It is the case of the petitioner that she was originally sponsored through Employment Exchange for appointment to the post of Junior Draftsman in the Survey and Land Records Department of Erode District. Only pursuant to the interview conducted on 01.10.1982 by a Three Member Committee, the petitioner was successfully selected and consequently, she was sent for training on 10.02.1982. On completion of the training on 04.05.1982, by order of



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the Assistant Director dated 06.05.1982, the petitioner was appointed as Junior Draftsman and was directed to join duty on or before 10.05.1982. However, even prior to the date of joining duty, the appointment of the petitioner came to be cancelled on 07.05.1982 on the ground that she was over aged on that date.

3. Challenging the order cancelling the appointment, the petitioner preferred W.P.No.6028 of 1982, which was later transferred to the file of Tamil Nadu Administrative Tribunal and re-numbered as T.A.No.163 of 1989. By order dated 08.08.1989, the application filed by the petitioner was allowed. Pursuant to that, by G.O.Ms.No.336, Revenue Department dated 23.02.1990, the petitioner was again appointed as Junior Draftsman in the time scale of pay. The age required under Rule 5(b) of the Tamil Nadu Survey and Land Records Subordinate Service was relaxed by G.O.(3D) No.31, Revenue, dated 23.11.1994. The petitioner successfully completed her probation on 31.07.1992 and also superannuated from services on 31.03.2012.

4. It appears that the petitioner had made a representation on



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16.07.2011 seeking to treat the period from 10.02.1982 to 31.07.1990 as continuity in service and to regularize her services with effect from 10.02.1982 onwards. The said claim of the petitioner was rejected by order dated 22.02.2012. Assailing the same, the present writ petition has been preferred.

5. Mr.S.Madhu Balaaji, learned counsel appearing for the petitioner contended that once the petitioner was sponsored through the Employment Exchange and was appointed only after undergoing the interview process before a Three Member Committee and being found qualified, the subsequent order cancelling the said appointment is erroneous, which was rightly interfered by the Tribunal.

6. Learned counsel further contended that when the order of the Tribunal was implemented and the petitioner was again appointed as Junior Draftsman, then, the appointment shall relate back to the original date of appointment, viz. from 06.05.1982 and thus, the period from 1982 to 1990 ought to be treated as the period without break in service and the services ought to be regularised from 1982. It



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is further contention that the break in service in the above period shall be condoned and has to be treated as the period in service for the purpose of pension.

7. Mrs.Yamuna Devi, learned Special Government Pleader for the respondents submitted that the original appointment of the petitioner dated 06.05.1982 was mistakenly made. As per Rule 5 of the Subordinate Service referred to earlier, the petitioner is eligible to be qualified only if she is within 28 years of age. As on the date of appointment, the petitioner has crossed 28 years of age. Therefore, her selection was bad and thus, the order of appointment was cancelled by the subsequent order.

8. It is her further assertion that the Tribunal, while allowing the application, directed to appoint the petitioner, treating the appointment as a fresh appointment. She further contended that when the petitioner was appointed to the post of Junior Draftsman, pursuant to the order of the Tribunal, the same was accepted by her and subsequently, her services was also regularised only with effect from



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1990. The petitioner having not disputed the same and remained silent from 2011, had come up with this veiled claim to treat the period from 1982 to 1990 as the period in service, which is not sustainable and sought for dismissal of the writ petition.

9. Heard the rival submissions of both parties.

10. It is not in dispute that the petitioner was originally sponsored through Employment Exchange and was issued with an order of appointment dated 06.05.1982 by the Assistant Director of Survey and Records, Erode, to the post of Junior Draftsman. As per the order of appointment, the petitioner was directed to report for duty on or before 10.05.1982. However, even prior to the date of joining in service, the original appointment order came to be cancelled by a subsequent order of cancellation dated 07.05.1982.

11. When the cancellation of appointment order was put to challenge by the petitioner, the Tribunal, by order dated 08.08.1989 in T.A.No.163 of 1989, considered the fact that the petitioner was



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sponsored through Employment Exchange and was successfully selected only after undergoing the interview process before the Committee, had allowed the application by directing the respondents to appoint the petitioner by treating it as a fresh appointment, by granting necessary age exemption also. The relevant portion of the said order reads as under:

“... Under the circumstances, we have no hesitation in coming to the conclusion that failure on the part of the respondent to verify the original certificates cannot disentitle the applicant from being appointed as the Computer Draftsman after she was selected and deputed to undergo training and after she has completed such training successfully. We, therefore, direct the respondent to take the applicant back in service on the next available vacancy in the same capacity in which she was appointed before her services were terminated by the impugned order. The appointment will be treated as a fresh appointment and the applicant will be granted necessary age exemption also. The application is allowed.”

12. As there was delay in issuing the appointment order, the petitioner had again approached the Tribunal in O.A.No.1990 of 1990



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with a prayer to expedite the process of appointment. The Tribunal, by order dated 09.07.1990, directed the respondents to complete the formalities by obtaining orders from the Government and appoint the petitioner in one of the unfilled vacancies. The relevant portion of the said order is extracted hereunder:

“... In such circumstances, the ends of justice will be met if a direction is issued to the respondents to complete the formalities and obtain the orders of Government before 31.10.1990 and take the applicant back to work by then. One of the three vacancies said to be existing in Periyar District will be kept unfilled till then.”

13. Pursuant to the above order, the petitioner was appointed to the post of Junior Draftsman in the time scale of pay by order dated 30.07.1990. Consequently, the Government had also issued G.O.(3D) No.31, Revenue Department dated 23.11.1994, regularising the services of the petitioner with effect from 01.08.1990, by relaxing Rule 5(b). Thereafter, by order dated 20.03.1995, the probation of the petitioner was declared with effect from 31.07.1992. The petitioner had never disputed or challenged either the order of regularisation with effect from 01.08.1990 or the declaration of the probation on



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20.03.1995 and had worked as Junior Draftsman and retired from service on 31.03.2012.

14. Only a short while before retirement, the petitioner had made a representation, viz. on 16.11.2011, for the first time, making a claim to treat the period from the date of her original appointment in 1982, which was subsequently cancelled, till the date of appointment in 1990 as the period in service and to regularise her services from 1982 onwards. The said representation was rejected by order of the second respondent dated 22.02.2012 on the ground that the appointment of the petitioner on 01.08.1990 was treated as fresh appointment.

15. The petitioner, admittedly, has crossed the required age of 28 years as per Rule 5(b) on the date of original appointment on 06.05.1982, and therefore, the appointment was cancelled. When the said order of cancellation was put to challenge, the Tribunal, considering the facts that the name of the petitioner was sponsored by Employment Exchange and that the petitioner was issued with the



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appointment order only after she was successful before the Interview Committee and underwent training, directed the respondents to accommodate the petitioner in any one of the vacancies by relaxing the Rule. In this context, as extracted above, the Tribunal, while allowing the application had made it clear that the appointment of the petitioner will be treated as fresh appointment and the Government shall also grant necessary age relaxation in this regard. The petitioner, contented with the fresh appointment, had given up her claim by not challenging that portion of the order.

16. As indicated in the impugned order, when the petitioner was already granted the benefit of age relaxation by relaxing the Rule and was also given a fresh appointment in the year 1990 as Junior Draftsman, pursuant to the orders of the Tribunal, the present claim made by the petitioner to treat the period from 1982 to 1990 as in service cannot be sustained.

17. When the petitioner had not worked from the year 1982 to 1990 and she has entered into service only on 31.07.1990, the



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contention of the petitioner that the period from 1982 to 1990 has to be considered as in service for the purpose of calculation of pension is without any basis and cannot be sustained.

18. In view of the above deliberations, the writ petition fails and



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accordingly, it is dismissed. There shall be no order as to costs.

Consequently, M.P.No.1 of 2014 is also dismissed.

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Index : Yes/No
Neutral Citation : Yes/No

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To

1. The Secretary to Government
Revenue Department, Secretariat
Chennai 600 009.
2. The Principal Secretary/Commissioner
of Survey and Settlement
Survey House, Chepauk
Chennai 600 005.



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G.ARUL MURUGAN, J.

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