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WP.No.3306 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :29.01.2024

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.3306 of 2021
and
W.MP.No.3763 of 2021

Chellammal

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Petitioner

/vs/

1. The Secretary to Government of Tamil Nadu,
Agriculture Department,
Fort St.George,
Chennai-600 009.
2. The Director of Agriculture,
Chepauk,
Chennai.
3. The Deputy Director of Agriculture,
Madurai.
4. The Assistant Executive Engineer,
Technical Wing,
Madurai.

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Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India for issuance of a WRIT OF Certiorarified MANDAMUS, calling for the records on the file of the 4th respondent in connection with No.A1987/2008 dated



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31.01.2011 and quash the same in as far as the service from 22.07.1991 to 05.11.2003 is left and consequently direct the respondents to regularise the service of the petitioner w.e.f. the date of appointment i.e. 22.07.1991 and in accordance with G.O.Ms.No.376 Agriculture Department dated 14.11.2002 by considering the representation dated 13.11.2019 as proposed by the 3rd respondent's proceedings dated 21.11.2019 and consequently grant all monetary benefits including pension w.e.f.01.04.2020 as per Original Tamil Nadu Pension Rules.

For Petitioner : Mrs.T.Aananthi

For Respondents : Mr.R.Neethi Perumal,
Government Advocate

ORDER

The petitioner has filed this writ petition for seeking direction against the respondent to call for the records on the file of the 4th respondent in connection with No.A1987/2008 dated 31.01.2011 and quash the same as far as the service from 22.07.1991 to 05.11.2003 is left and consequently direct the respondents to regularise the service of the petitioner w.e.f. the date of appointment i.e. 22.07.1991 and in accordance with G.O.Ms.No.376 Agriculture Department dated 14.11.2002 by considering the representation dated 13.11.2019 as proposed by the 3rd respondent's proceedings dated 21.11.2019 and consequently grant all



monetary benefits including pension w.e.f.01.04.2020 as per Original Tamil Nadu Pension Rules.

2.The petitioner, who was appointed as an NMR against a non-technical post, was given the benefit of regularisation pursuant to the G.O.Ms.376, dated 14.11.2002. Those persons who were earlier appointed to technical posts filed an Original Petition in O.A. No. 4869 of 1994 before the Administrative Tribunal, Chennai and an order was passed on 21.09.1994 by issuing directions to regularise the services of those applicants who were technically qualified, subject to the availability of the vacancies. Taking cue from the said order later, the government has considered the plight of the non-technical persons as well and has issued G.O.Ms.No.376 Agriculture (A.A.III) dated 14.11.2002. In the said G.O., the names of 14 individuals have been considered for regularisation for the post of Junior Assistant in the existing vacancies.

3. Heard, Mrs.T.Aananthi, learned counsel for the petitioner and Mr.R.Neethi Perumal, learned Government Advocate for the respondents and perused the materials available on record.

4. Mrs.T.Aananthi, learned counsel for the petitioner submitted that despite



the G.O. was issued as early as in the month of November-2002, the regularisation order was given only on 21.10.2003 by giving the effect of regularisation from the date of said G.O., i.e., 21.10.2003.

4.1. It is further submitted that due to the delay in issuing the above order for regularisation, the petitioner had lost the benefit of coming under the old pension scheme, for which the crucial date of appointment was 01.04.2003. It is submitted that the delay on the part of the respondent shall not affect the terminal benefits, including the pensionary benefits, that would be obtained by the petitioner in the event of their retirement. Hence, the petitioner has filed this writ petition seeking to direct the respondents to regularise the service of the petitioner w.e.f. the date of appointment, i.e., 22.07.1991 and in accordance with G.O.Ms. No. 376, Agriculture Department, dated 14.11.2002 by considering the representation dated 13.11.2019, as proposed by the 3rd respondent's proceedings dated 21.11.2019 and consequently grant all monetary benefits, including pension, w.e.f., 01.04.2020 as per the Original Tamil Nadu Pension Rules.

5. The petitioner claims the right to regularise her service, vide G.O.Ms.376, dated 14.11.2002. In the said G.O., it is stated that the seniority of



the petitioner and the other 13 individuals, totaling 14 individuals, should be fixed with effect from their date of appointment to the post of Junior Assistant.

6. Mr. R. Neethi Perumal, learned Government Advocate for the respondents submitted that petitioners have been appointed only as and when the vacancies arose and they cannot seek any retrospective impact of their regularization.

7. It is not the contention of the petitioner that he alone was left out and the 13 other individuals in whose favour also, the G.O.376 dated 14.11.2002 was issued, were given retrospective regularisation, and their past services in some other category have also been included for their regularization. The benefit of regularisation has been given to the petitioner by absorption on his qualification for the post of junior assistant by considering their past services.

8. The concurrence of the TNPSC has also been obtained in this regard and in such case, the petitioner cannot seek any appointment to any post that was not in existence at the time of her regularization. Even if there are posts available, it is up to the government to consider the existing situation and to absorb the person as and when a vacancy arises. It would have been better for the petitioners if the appointment for junior assistant was done as early as in the month of



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November 2002.

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9. The petitioner's probation was declared on 31.10.2003 by considering her date of joining as 06.11.2003 in the post of Junior Assistant. So the petitioner is not entitled to claim any retrospective effect of her appointment before the date of her appointment itself.

In the result, the Writ Petition is **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes

Internet : Yes/No

Speaking/ Non-Speaking

Neutral: Yes/No

jrs



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R.N.MANJULA, J.

jrs

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