



W.P.No.27278 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.27278 of 2022

G.P.Vijayalakshmi

... Petitioner

Vs.

1. Government of Tamilnadu,
Rep. By its Secretary,
Environment and Forest Department,
Fort St.George,
Chennai 600 009
2. Government of Tamilnadu,
Rep. By its Secretary,
Highways Department,
Fort St.George,
Chennai 600 009
3. The District Forest Officer,
District Forest Office,
Coimbatore

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Mandamus directing the respondents to regularization of service of the petitioner as typist from the initial appointment on 19.08.1996 till 15.12.2010 temporary service under rule 10(a)(i) purpose of getting pension and shift the contributory pension scheme to old pension scheme as per supreme court judgment in Civil



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Appeal No.6798 of 2019 dated 02.09.2019 and S.L.P(C) No.4371 of 2011.

For Petitioner : Mr.S.Mani

For Respondents : Dr.T.Seenivasan,
Special Government Pleader

ORDER

This writ petition has been for direction to the respondents to regularise the service of the petitioner as Typist from her initial appointment i.e. 19.08.1996 till 15.12.2010 for the purpose of getting pension under old scheme.

2. The petitioner was initially appointed as Typist on temporary basis in the Forest Department on 19.08.1996. Thereafter, she was selected to the post of regular Typist on 10(a)(1) basis in the Highways Department worked from 20.12.2007 to 15.12.2010. Subsequently, she was selected through Tamil Nadu Public Service Commission on 16.12.2010 and her service was also regularised. After declaration of her probation as successful from 15.12.2013, now the petitioner's name has been added in the new contributory pension scheme. The case of the petitioner is that if the petitioner's service was regularised from the



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date of her initial appointment, she would be able to get pension under old pension scheme.

3. The learned counsel appearing for the petitioner would submit that the petition relied upon various judgments and sought for regularisation of her service from the date of her initial appointment. He further submitted that those Government servants / employees appointed prior to 01.04.2003, whether on temporary or permanent basis in terms of Rule 10(a)(i) of Tamilnadu State and Subordinate Service Rules will be entitled to get pension as per the Tamil Nadu Pension Rules, 1978.

4. Heard, the learned counsel appearing on either side.

5. It is seen that the petitioner produced two certificates, first certificate for the period from 19.08.1996 to 31.03.2006 from the Divisional Forest Officer and the second certificate was issued for the period from 01.04.2006 to 19.12.2007 from the Office of the Conservator of Forest, Working Plan Circle, Coimbatore. However, she was not continuing as Typist without any break of service in the Office of the



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Superintending Engineer, Highways Department of Coimbatore. The petitioner was appointed in Highways Department as Typist purely on temporary basis and joined duty on 20.12.2007. She was ousted from service on 03.07.2008 and permitted to join duty on 04.07.2008. Therefore, the service of the petitioner cannot be considered as service period in the Highways Department.

6. In the case of *State of Karnataka Vs. Umadevi* reported in *(2006) 4 SCC 1*, the Hon'ble Supreme Court of India issued guidelines and accordingly, the Government of Tamilnadu passed order in GO.Ms.no.131 Personnel and Administrative Reforms (F) Department dated 28.11.2020. Accordingly in case of posts governed by rules, in all the services, including Tamil Nadu Basis Service, appointment shall be made only with reference to the existing rules. While selecting candidates for appointment, the claim of the contesting candidates shall be weighed with reference to the rules in force as emphasised in *Umadevi's case* (cited supra). The petitioner was not absorbed through Employment Exchange or through regular recruitment procedure from 19.08.1996. She was appointed against Tamil Nadu State and Subordinate Service Rules,



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1955 and she was appointed only temporarily against the existing rules.

Thereafter, the Government passed order in GO.Ms.No.259 Finance (Pension) Department dated 06.08.2003 and the Government of Tamil Nadu introduced Contributory Pension Scheme with effect from 01.04.2003 for the employees who are appointed on or after 01.04.2003.

7. As far as the petitioner is concerned, she had served as Temporary Typist on daily wage basis in the Agave Division Coimbatore from 19.08.1996 to 31.03.2006. Thereafter, she was appointed as Typist purely on temporary basis under Rule 10(a)(i) of Tamil Nadu State and Subordinate Service Rules in the Office of the Superintending Engineer of Highways Department, Coimbatore. She had served till 15.12.2010. Thereafter, the petitioner was selected through Tamil Nadu Public Service Commission as Typist and allotted to the Forest Department and she had joined on 16.12.2010. Under GO.Ms.No.715 Personnel and Administrative Reforms (Placement) dated 06.07.1981, the unavoidable break in service caused while joining in the new department after selection by the Tamil Nadu Public Service Commission was condoned. However, it is not applicable to the case of the petitioner. Even though



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she was selected through special test, she had joined as Typist under 10(a)(i) on 20.12.2007 after 06.07.1981. That apart, the service of the petitioner is not a continuous one and she had break in service in three times.

8. Further, as per the order in GO Ms.No.259 Finance (Pension) Department dated 06.08.2003, in case of Government employee / servant had also rendered service in non-provincialised service on or consolidated pay or honararium or daily wage basis and if such service were regularised before 01.04.2003, half of service rendered shall be counted for the purpose of conferment of pensionary benefits. However, the petitioner joined on 16.12.2010 and as such, her case cannot be considered under old pension scheme. Under GO.Ms.No.131 Personnel and Administrative Reforms (F) Department dated 28.11.2020, the service of the daily wage employees in all the Government Departments who have rendered ten years of service as on 01.01.2006 by appointing in the time scale of pay of the post in accordance with the service conditions prescribed in the post concerned. But the petitioner failed to complete ten years of service as on 01.01.2006. Therefore, the



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petitioner is not entitled for claiming concession under the said Government order also. As such, the prayer sought for in this writ petition cannot be considered and this writ petition is liable to be dismissed.

9. Accordingly, this writ petition is dismissed. There shall be no order as to costs.

08.07.2024

Neutral citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To
1.Secretary,
Government of Tamilnadu,
Environment and Forest Department,
Fort St.George,
Chennai 600 009
2.Secretary,
Government of Tamilnadu,
Highways Department,
Fort St.George,



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