



W.P. Nos.32727 of 2018 & 31854 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.Nos.32727 of 2018 & 31854 of 2019

1.K.Rajendran

2.P.Shanmugam

3.A.Sivaprakasam

4.K.Kanagarasu

5.A.Tamilmuthu

6.M.Ayyavu

7.D.Muthulakshmi

8.A.Magam

9.P.Malliga

10.M.Periyasamy

11.E.Manimegalai

... Petitioners in W.P.No.32727 of 2018

M.Mahendran

... Petitioner in W.P.No.31854 of 2019

Vs.

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W.P. Nos.32727 of 2018 & 31854 of 2019

1.The State of Tamil Nadu
Rep by its Secretary to Government,
Backward & Minorities Welfare Department,
Secretariat,
Chennai – 600 009.

2.The Director/Commissioner
Backward & Minorities Welfare Department,
Ezhilagam, Chepauk,
Chennai – 600 009.

3.The District Officer,
Backward & Minorities Welfare Department,
Trichy District.

...Respondents in both W.Ps.

PRAYER in both W.Ps: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records of the 2nd respondent vide in its proceedings No. Na.Ka.P-1/141/2017 dated 20.01.2017 and quash the same as illegal and direct the respondents to regularise the services of the petitioners from the date of initial appointment.

For Petitioners : Mr.R.Ganesh Babu

For Respondents : M/s.E.Ranganayaki
Additional Government Pleader.

ORDER

The issue that arise for consideration in both the writ petitions is one and the same and as such both the writ petitions are heard together and are being disposed of by this common order.



2. All the petitioners were appointed as Assistant Chef Female during the years 1995 and 1999 through proceedings RC.NO.Pa5/97580/94 dated 31.07.1995 and Pa1/26761/99 dated 20.11.1999, after having been sponsored by the concerned Employment Exchange on consolidated pay of Rs.500/- per month. Thereafter, considering the claims made by the petitioners and other similarly situated persons, their cases were considered for regular time scale of pay and the same was extended to them through G.O.Ms.No.85, Department (BW1) of Backward Classes, Most Backward Classes and Denotified Classes Welfare Department, dated 20.09.2007. The date of said Government Order was treated as the date of regularization of their services in the cadre of Cook/Chef and they were extended all the service benefits including awarding of selection grade etc.

3. All the petitioners have been continuing in service. While so, the petitioners made a claim for regularization of their services with effect from the date of their initial appointment on the ground that they were sponsored by the Employment Exchange and they were also appointed by following due process of law and therefore, the action of the respondents in



regularising the services of the petitioners from 20.11.2007 illegal. Thus, they claimed for regularization of their services with effect from the date of their initial appointment.

4. The respondents have filed counter affidavit stating that on establishment of certain new Hostels, the petitioners were appointed as Assistant Chef/Assistant Cook, though there was no such post in Tamil Nadu Backward Classes and Most Backward Classes Welfare Service, but subsequently, their services were regularized in the post of Cook basing upon the availability of sanctioned post and by duly following the seniority among the Assistant Cook who were appointed on consolidated basis.

5. Heard the learned counsel for the petitioners and M/s.E.Ranganayaki, learned Additional Government Pleader for the respondents and also perused the entire material on record.



6. For the first time, the claim was made by the petitioners by submitting a representation in the year 2016 and thereafter, approached this Court by filing the present writ petition in the years 2018 and 2019 though their grievance pertains to the year 2007. Hence, it is a belated claim and the same is liable to be rejected on this ground alone for the following reasons alone:

The petitioners who were appointed during the years 1995 and 1999 as Assistant Cook/Assistant Chef got their services regularized by awarding a regular time scale of pay in the year 2007 through G.O.Ms.85 dated 20.11.2007 and they have accepted the same and continued in service for almost about a decade and it is only after a lapse of a decade, the petitioners started making the claim for regularization of their services from the date of their initial appointment. Therefore, the claim that is made for the first time, after a lapse of decade since the date of regularisation of their services and after a lapse of one and a half decade since the date of initial appointment on consolidated pay, is liable to be rejected on the ground of delay and laches.



7. Further, as against the specific contention raised in the counter affidavit is that the post of Assistant Cook is not borne in the services in question and therefore, claim of regularisation of services in the said post from the date of initial appointment does not arise, there is no material that is placed before this Court to contradict the said stand of the respondents.

8. There is no dispute that the post of Assistant Cook & Assistant Chef is not borne in the Tamil Nadu Backward Classes and Most Backward Classes Welfare Services and therefore, the question of regularising the services of the petitioners with effect from their date of initial appointment as Assistant Cook does not arise. It is also contended in the counter affidavit that the services of the petitioners were ultimately regularised in the post of Cook depending upon the availability of vacancies and basing upon the seniority. In view of the same, the claim made by the petitioners for regularisation of their services from the date of initial appointment cannot be said to be a sustainable claim.



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9. In the circumstances, this Court does not find any merit in the writ petitions and the same are accordingly dismissed. The connected miscellaneous applications, if any, shall stand closed. No costs.

14.06.2024

Index : Yes/No
Speaking Order : Yes/No

dpa

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