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W.P.No.28205 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2025

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.28205 of 2023

S.Ganesh Kumar

...Petitioner

-Vs-

1.The Union of India,
Rep. by its Secretary to Government,
Environment, Forest and Climate Change Department,
Indira Paryavaran Bhawan, Jor Bagh,
New Delhi – 110 003.

2.The State of Tamil Nadu,
Rep by its Additional Chief Secretary to Government,
Environment, Climate Change and Forest Department,
Secretariat, Fort St.George,
Chennai – 600 009.

3.The Principal Chief Conservator of Forest,
Head of Forest Force, Velachery Main Road,
Guindy, Chennai – 600 032.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Mandamus, directing the respondents to regularise the petitioner service with effect from the date of initial appointment as Computer Operator and from the date of completion of ten years of service absorbing the petitioner in the cadre post of Record Clerk or Typist or Junior Assistant notionally by relaxing the



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service rules by extending the benefits of G.O(2D)Ms.No.124, Environment, Climate Change and Forest (FR3) Department, in the light of W.A.No.2731 of 2018 dated 31.08.2021 and Slp(C)No.10057 of 2022 dated 11.07.2022 on the basis of G.O.Ms.No.74, P&AR Department dated 27.06.2013 and to extend all service benefits arising out of the same by way of considering the claim of the petitioner within time frame and pass such further orders.

For Petitioner : Mr.I.Kanna Patel
For R1 : Mr.R.K.Gandhi, CGSC
For R2 & R3 : Mr.S.Rajesh
Government Advocate

ORDER

This writ petition has been filed to direct the respondents to regularise the petitioner service with effect from the date of initial appointment as Computer Operator and from the date of completion of ten years of service absorbing the petitioner in the cadre post of Record Clerk or Typist or Junior Assistant notionally by relaxing the service rules by extending the benefits of G.O(2D)Ms.No.124, Environment, Climate Change and Forest (FR3) Department, in the light of W.A.No.2731 of 2018 dated 31.08.2021 and Slp(C)No.10057 of 2022 dated 11.07.2022 on the basis of G.O.Ms.No.74, P&AR Department dated 27.06.2013 and to extend all service benefits arising out of the same by way of considering the claim of the petitioner within a time frame.



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2. The petitioner was initially engaged on 01.11.2008 in a temporary capacity as Computer Operator paid from contingencies, and from then onwards the petitioner has been continually working in the said post as Data Entry Operator cum clerk for the past more than 15 years.

3. The 3rd respondent herein has sent a proposal to regularise the service of the “Typist” Post by relaxing Rule 26 (Reservation in Appointment) and Rule 28 (regarding age in Tamil Nadu Ministerial Service Rules (or) may regularise the service of the petitioner in “Date Entry Operator” post by relaxing Section 27 (Reservation in appointment) of Tamil Nadu Government Servants (Conditions of Service) Act 2016 and Rule 5(1) (regarding age) and Rule 5(C) (Educational Qualification) in Adhoc Rules of Data Entry Operator as Deemed fit in this case and to allow monetary benefit from the date of issue of order as ordered in G.O.Ms.No.74, Personnel and Administrative Reforms (FO Department dated 27.06.2013 and also under Section 28(2) of the Tamil Nadu Government Servants (Conditions of Service) Act 2016.

4. Thereafter, the second Respondent herein issued G.O.(Ms)No.190, Environment and Forests (FR.6) Department, dated 20.12.2011, pursuant to which the 3rd Respondent herein issued a separate proceeding, prescribing the



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procedure for engaging contractual staff in Tamil Nadu Forest; therein the total number of Data Entry Operators cum Clerk or Typist or Junior Assistant for which selection proceedings was directed to be conducted was prescribed as 107 and more. Thereafter, the Chief Controlling Officer called upon eligible candidates to submit their applications for participating in the selection proceedings for appointment.

5. Furthermore, the Tamil Nadu Forest Department Computer Operators Welfare Association and Southern Forest Staff Federation, in which the petitioner and his colleagues herein are Members, made representations to various authorities as well as to the Chief Minister's Cell and the Forest Minister to directly appoint them as Data Entry Operators for absorbing them in the cadre post of Record Clerk or Typist or Driver or Junior Assistant notionally in Tamil Nadu Forest, in view of their continuous service in the Forest Department on a daily wage basis.

6. In pursuance of the said representation, the 3rd Respondent herein, on examining the same, in the light of the provisions contained in G.O.(Ms).No.190, Environment and Forests (FR.6) Department, dated 22.12.2011, and the Conservator of Forest and Controlling Officers were requested to take into consideration the request of the temporary Computer



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operators having work experience in various Forest Department Officer positions for engaging them as a Data Entry Operators cum Clerk, Junior Assistant, based on merit, qualification, professional experience and overall capability in the relevant field.

7. Learned counsel appearing for the petitioner would submit that since the respondents have not taken into account the services rendered by the Petitioner on a temporary basis to regularise the service as per the order passed in W.P.(MD)No.5885 of 2008 dated 05.12.2008, the Hon'ble Supreme Court order in SLP No.19972 of 2009 dated 01.02.2010, G.O.(Ms) No.111 School Education (R1) Department dated 09.05.2012 and order in W.P.No.2650 of 2019 dated 12.06.2019 and the 2nd Respondent issued G.O.(Ms)No.172 dated 03.11.2022, G.O.(Ms)No.72 dated 01.04.2023 and G.O.(Ms)No.124 dated 30.06.2023, the Petitioner has come up with the present Writ Petition.

8. Learned counsel would further submit that the petitioner has given a representation dated 26.07.2023 and the same has not been considered by the respondents till date and no orders have been passed.

9. A counter affidavit was filed on behalf of the respondents dated 23.01.2024.



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10. Learned Government Advocate appearing for respondents 2 and

3 would submit that the representation of the petitioner dated 26.07.2023 would be considered on merits, in accordance with law within the time frame stipulated by this Court.

11. Heard both sides and perused the materials available on record.

12. Without going into the merits of the case, this Court is inclined to issue the following direction:

The 3rd respondent is directed to consider the representation of the petitioner dated 26.07.2023 after giving due notice mentioning the date of hearing to the petitioner, and the petitioner on receipt of the said notice from the third respondent, may appear either in person or through counsel, to take into consideration all the relevant documents submitted by the petitioner, and pass appropriate orders on merits, in accordance with law, within a period of six (6) weeks from the date of receipt of a copy of this order.

In the result, the writ petition stands disposed of with the above observations and directions. No costs.



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Index : Yes/No

Speaking/Non Speaking order

To

- 1.The Secretary to Government,
The Union of India,
Environment, Forest and Climate Change Department,
Indira Paryavaran Bhawan, Jor Bagh,
New Delhi – 110 003.
- 2.The Additional Chief Secretary to Government,
The State of Tamil Nadu,
Environment, Climate Change and Forest Department,
Secretariat, Fort St.George,
Chennai – 600 009.
- 3.The Principal Chief Conservator of Forest,
Head of Forest Force, Velachery Main Road,
Guindy, Chennai – 600 032.

J.SATHYA NARAYANA PRASAD, J.

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