

(2011) 07 MAD CK 0458

In the Madras High Court

Case No : Writ Petition No. 324 of 2007 and O.A. No. 3916 of 2001

N. Balakrishnan

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 18-07-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Tamil Nadu State and Subordinate Services Rules, 1955 — Rule 10

Citation : (2011) 07 MAD CK 0458

Hon'ble Judges : D. Hariparanthaman, J

Bench : Single Bench

Advocate : K. Sellapandi, for the Appellant; R. Ravichandran, Additional Government Pleader, for the Respondent

Judgement

D. Hariparanthaman, J.—The Original Application in O.A. No. 3916 of 2001 before the Tamil Nadu Administrative Tribunal is now W.P. No. 324 of 2007 before this Court.

2. The Petitioner is a Repatriate from Sri Lanka. He was appointed as Junior Assistant in Commercial Tax Office under Rule 10(a)(i) of the Tamil Nadu State and Subordinate Services Rules by an order dated 14.12.1990. He was ousted from service on 16.12.1994. Thereafter, for want of vacancy, by an order dated 23.02.1996, he was reappointed as Junior Assistant. The services of the Petitioner was not regularized in spite of the Government issued G.O.Ms. No. 2024, Revenue Department, dated 15.05.1974, to regularize the service of the Repatriate employee even though they are not fully qualified or they are over aged by granting relaxation in those matters. The first Respondent passed an order dated 06.07.1999 stating that certain repatriates who were ousted from services for want of vacancies filed Original Application Nos. 3054/90, 3533/90, 2532/90 and 8/91 seeking direction that the benefit given to the Repatriates in G.O.Ms. No. 2024, dated 15.05.1994 to be extended to the posts coming within the purview of Service Commission and the said Original Applications are

pending before the Tamil Nadu Administrative Tribunal and therefore, the request of the Petitioner for regularization could not be considered. Aggrieved by the said order, the Petitioner has filed Original Application before the Tamil Nadu Administrative Tribunal, Chennai, praying to quash the order of the first Respondent and to regularize the services of the Petitioner from the date of appointment as per Government Lr. No. 3096/ Rehabilitation/1(2)/89, dated 11.08.1999 of Rehabilitation Department.

3. The Respondents have not filed any counter affidavit.

4. The Government passed G.O.Ms. No. 2024, Revenue Department, dated 15.05.1974, granting certain benefits to repatriates, who are employed in Government Services. Paragraph 3 of the said Government Order is extracted hereunder:

3... When the Government have recognized the need for relaxing certain rules prescribed for the recruitment to various jobs in Public Services in favour of the repatriates they should not be deprived of the benefits, like seniority increments etc., accruing out of making such relaxations effective from the date of their appointment to such posts, by making them effective from the date of the order. Government, therefore, direct that the relaxation of rules relating to age and educational qualification made in favour of repatriates appointed to various categories in Public Services should be made effective from the date of their appointment to such posts. Government also direct all the Administrative Departments to review all the orders issued by them earlier relaxing the rules in favour of the repatriates and to take action, wherever necessary, suitably revised them so as to make the relaxation effective from the date of their appointment. In such cases the repatriates should be eligible for drawing increments, arrears of pay etc., from the date of their appointment.

5. The aforesaid Government Order makes it clear that all the employees, whether the posts coming under the purview of the Tamil Nadu Public Service Commission or not, are entitled to the benefit of Government Order, if those employees are either Burma Repatriates or Sri Lanka Repatriates. It makes very clear that those employees should be regularized with all monetary benefits from the date of their appointments even if they do not possess educational qualifications or they are over aged by granting necessary relaxation.

6. In view of the aforesaid concession given by the Government in categorical terms, the impugned order was passed in violation of the said Government Order and therefore, the impugned order is quashed. The first Respondent is directed to consider the claim of the Petitioner for regularization from the date of first appointment based on G.O.Ms. No. 2024, Revenue Department, dated 15.05.1974 with monetary benefits and to pass appropriate orders on merits in accordance with law within a period of six weeks from the date of receipt of a copy of this order.

7. Accordingly, this writ petition is disposed of. No. costs.