
(2014) 06 MAD CK 0317
In the Madras High Court
Case No : W.P.(MD) No. 20466 of 2013

TMT. T. Malarselvi

APPELLANT

Vs

The Secretary to Government

RESPONDENT

Date of Decision : 30-06-2014

Acts Referred:

Citation : (2014) 06 MAD CK 0317

Hon'ble Judges : K. Ravichandra Babu, J

Bench : Single Bench

Judgement

K. Ravichandrabaabu, J.—The petitioner seeks for a mandamus directing the respondents to regularize her service by ratifying the appointment w.e.f. the date of her original appointment dated 13.08.2002 and consequently for a direction for payment of salary w.e.f. 01.01.2006.

2. It is seen the writ petitioner was appointed as Assistant Cook at Panchayat Union Elementary School by an order dated 13.08.2002. She is continuously working in the said post all these years. However, all of a sudden, her salary was stopped from 01.01.2006 by stating that her appointment was made during the ban period. However, the fact remains that the District Collector through his proceedings dated 30.06.2011 made a recommendation to the second respondent for regularization of service, taking note of the fact that the petitioner is working from the year 2002 and without salary from January 2006. It is also observed by the District Collector that the petitioner is working all these years. Even after such recommendation was made by the District Collector to the second respondent, till this date, the service of the petitioner has not been regularized and the salary is also not paid from January 2006 onwards.

3. The fifth respondent has filed a counter affidavit, wherein, it is admitted that the appointment of the petitioner was made as per the Government's direction and the same was allowed to continue till this date. It is further stated therein that the ban order for fresh appointment is also not in existence. After saying so, the fifth respondent has also accepted that there is no hindrance or impediment

for regularization of the said appointment. Accordingly, it is stated that they are in anticipation of the Government Orders.

4. Considering the fact that the petitioner was appointed as early as in the year 2002 and she is receiving her salary till December 2005, stopping the salary all of a sudden and extracting the work from her all these years from January 2006 onwards without regularization of her service is not a justifiable action on the part of the respondents. The District Collector has already made recommendations for regularization of the service. The fifth respondent has also admitted that the service of the petitioner is liable to be regularized. When that being the recommendation and admission of the competent authorities, I am of the view that the second respondent cannot delay the matter further.

5. Accordingly, the second respondent is directed to consider the claim of the petitioner for regularization of her service by taking note of the fact that she was appointed as early as in the year 2002 and she is continuously working all these years, that too without any salary from January 2006 onwards. Accordingly, the second respondent shall pass orders on the regularization request of the petitioner, in the light of the recommendation already made by the District Collector on 30.06.2011, within a period of 12 weeks from the date of receipt of a copy of this order.

6. Further, it is an admitted fact that the petitioner is still working as Assistant Cook all these years. However, she is not paid salary from January 2006 onwards. In my considered view, pendency of her request, seeking for regularization of her service cannot be a reason for paying the salary to the petitioner, when admittedly she is working all these years and the respondents have extracted the work without salary. Therefore pending consideration of the regularization proposal by the second respondent, the fifth respondent shall pay the salary to the petitioner, commencing from the month of January 2006 onwards and continue to pay the same as long as the petitioner is working under the fifth respondent. Needless to say that the order to be passed by the second respondent on the proposal for regularization will not stand in the way of the fifth respondent in disbursing the salary for the above periods. Accordingly, the fifth respondent is directed to disburse the salary to the petitioner with effect from January 2006 onwards and continue to pay the same every month. The arrears of such salary shall be paid by the fifth respondent within a period four weeks from the date of receipt of a copy of this order.

7. Accordingly, this writ petition is allowed on the above terms. Consequently, connected M.P.(md).No.1 of 2013 is closed. No costs.