

(2014) 07 MAD CK 0116

In the Madras High Court

Case No : Writ Petition No. 1612 of 2010

T.N.Anandhi

APPELLANT

Vs

The Secretary to Government

RESPONDENT

Date of Decision : 07-07-2014

Acts Referred:

Citation : (2014) 07 MAD CK 0116

Hon'ble Judges : R. Sudhakar, J

Bench : Single Bench

Judgement

R. Sudhakar, J.—This Writ Petition is filed seeking to issue a writ of mandamus to the respondents to absorb the petitioner based on their educational qualification as per the directions issued by this Honourable Court in W.P. No. 24771 of 2006 dated 20.08.2009.

2. The case of the petitioners is that the first petitioner while serving as Supervisor in the Regional Tabulation Office, her services were terminated on 31.12.1992 on account of the winding up of the Regional Tabulation Office. Petitioners 2 to 4 were served as Checkers and Compilers in the Office of Census Operation, Vellore Regional for a period from April, 1991 to 31.12.1992. They were also terminated from service from 31.12.1992. Similarly placed employees claimed absorption and the first respondent issued orders in respect of the persons, who have approached the Supreme Court and the Tribunal. Based on the directions of the Supreme Court, the Government issued G.O.Ms. No. 209 (P&AR) (P) Department dated 23.11.2001, but the same has not been implemented. Hence, Original Application was filed before the Tamil Nadu Administrative Tribunal and the same was transferred to this Court. During the pendency of the same, the Government issued another order in G.O.Ms. No. 24, Personnel & Administrative Reforms (P) Department dated 02.03.2006. In view of the same, the Writ Petition was disposed of granting five months time limit to implement the government order. Following the directions of this Court, the first respondent issued a direction on 20.7.2006 that the retrenched employees of the

year 1991 may be absorbed in the post suitable to their qualification.

3. Since the persons were not given appointment based on their qualification, they have approached this Court by filing W.P. No. 24771 of 2006. By order dated 20.8.2009, this Court disposed of the Writ Petition, wherein it was held as follows:

20. As far as G.O. Ms. No. 209, Personnel and Administrative Reforms Department dated 23.11.2001 and the Circular dated 13.04.2006 are concerned, the petitioners' grievance is with regard to sub-paragraph no. 3 of main paragraph no. 4 of the said Government Order and paragraph no. 5 of the said Circular wherein it is stated that the petitioners can be absorbed only in those posts which are not coming under the purview of the Tamil Nadu Public Service Commission. As far as recruitment to the posts for which appointments are made through expert bodies is concerned, certainly, one has to undergo the process of selection. By virtue of their short tenure in the Census Department, the petitioners cannot seek appointment to the post which are to be filled through selection process by expert bodies. It is relevant to point out here that as far as these petitioners are concerned, they were appointed only on consolidated pay of Rs. 900/- for Compilers, Rs. 1,050/- for Checkers and Rs. 1,200/- for Supervisors and that too, only for a short tenure. As such, as referred to above, this is only a concession given to them. Apart from this, as far as the posts coming under the purview of Tamil Nadu Public Service Commission are concerned, there is no bar for the petitioners to apply to the said posts as done by other candidates. These petitioners were ousted after their short tenure in the Census Department. They were ousted from service in the year 1991 and for a period of nearly 19 years, they have not taken any steps to apply to those posts when applications had been called for by the expert bodies, viz., Tamil Nadu Public Service Commission, etc. and when number of individuals with better qualification are in the queue, without undergoing the process of selection, basing on their short tenure in the Census Department, the petitioners cannot be absorbed in the posts which are coming under the purview of the Tamil Nadu Public Service Commission. Besides, as far as the posts coming under the Tamil Nadu Public Service Commission are concerned, even after selection, candidates are accommodated under three lists viz., main list, reserve list and waiting list and only the main list candidates are given appointment orders and as far as the incumbents of the other two lists are concerned, depending upon so many factors, they may or may not get appointment orders. When such is the position, basing on the concession given and sympathy shown to the petitioners who are retrenched employees of the Census Department, they cannot take a stand that they should be accommodated in these posts without undergoing the process of selection. As such, I do not find any infirmity in the impugned Circular and also sub-paragraph no. 3 of main paragraph no. 4 of G.O. Ms. No. 209, Personnel and Administrative Reforms Department dated 23.11.2001.

21. Consequently, if any of the petitioners were not absorbed in the Group IV

post, their claim can be considered with reference to their qualification for absorption in the posts which are coming under Group IV, but, which are not coming under the purview of the Tamil Nadu Public Service Commission. Such exercise should be done within a period of three months from the date of receipt of a copy of this order.

4. Since the petitioners are re-employed as Record Clerk and Office Assistants, even though they are qualified for appointment as B.T.Assistants and P.G.Assistants, they have filed the present Writ Petition for the relief stated supra.

5. It is the specific case of the petitioners that the first respondent has given a specific direction to the District Collector to appoint those retrenched employees in a suitable post based on their eligibility and qualification and that has not been done. In paragraph 7 of the affidavit, it is stated that the petitioners have made representations in person and also in writing and there was no response. It is the further case of the petitioners that the second respondent is refusing to comply with the order of this Court as well as that of the first respondent.

6. All the above pleas, though appears to be acceptable on the first blush, the relief sought for by the petitioners cannot be granted as there is no material to show that they are re-employed in lower post and they have made representations to the second respondent repeatedly, who refused to obey the orders of this Court. In any event, the nature of post in which the petitioners are claiming to be working and the nature of representation they have sent has not been enclosed along with this Writ Petition. Hence, mandamus sought for cannot be granted merely on a contention raised in the affidavit. There is no material to show that the authorities have been called upon by the aggrieved petitioners to comply with the directions of this Court. In any event, this Court is of the view that no ground is made out to grant the relief sought for in this Writ Petition. Accordingly, this Writ Petition stands dismissed. No costs.