



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.04.2015

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.41 of 2014

and

M.P.No.1 of 2014

1. P.SUNDAR
2. K.DEVAN
3. KAMARAJ
4. S.KANAKASABAPATHY

... PETITIONERS

Vs

1. THE STATE OF TAMILNADU
REP. BY THE PRINCIPAL SECRETARY
HEALTH & FAMILY WELFARE DEPARTMENT
FORT ST. GEORGE
CHENNAI-9
2. THE DIRECTOR OF HEALTH SERVICES
PUBLIC HEALTH & PREVENTIVE MEDICINE
DMS COMPOUND CHENNAI-6

... RESPONDENTS

Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondents to forthwith regularize the services of the petitioners with effect from the date of their initial appointment by condoning the break in service between 2001 and 2005 and to accept the GPF contribution instead of CPF contribution and thereby bring them into pensionable services and to extend all consequential services benefits both pension and other pensionary benefits

For Petitioners : Mr.L.Chandrakumar

For Respondents : Mr.R.Lakshminarayanan, AGP



ORDER

Heard Mr.L.Chandramumar, learned counsel for the petitioners and Mr.R.Lakshminarayanan, learned Additional Government Pleader for the respondents and with their consent, the main writ petition itself is taken up for final disposal.

2. The petitioners have filed this writ petition for the issuance of a direction upon the respondents to forthwith regularize their services with effect from the date of their initial appointment by condoning the break in service between 2001 and 2005 and to accept the GPF contribution instead of CPF contribution and thereby bring them into pensionable services and to extend all consequential services benefits both pension and other pensionary benefits.

3. The facts of the case of the petitioners are they were all appointed as Casual Labourers on daily wage basis on rendition of requisite number of years of service and with reference to sponsor by the employment exchange and that of the educational qualification and roaster, they were selected and appointed as drivers. When that being the case, to the shock and surprise, vide proceedings dated 23.11.2005, the petitioners services came to be terminated, which was challenged before this Court by filing a writ petition in W.P.No.3285 of 2006, pursuant to which, they came to be absorbed and their services were regularized. At this juncture, it is relevant to point out that by G.O.Ms.No.325, Health and Family Welfare Department dated 13.12.2006, time scale of pay was extended to the petitioners with effect from 01.01.2007 and are continuing as such. In view of the services having been rendered prior to coming into being of the contributory provident fund, thereby becoming eligible for pension and other pensionary benefits thereto, the petitioners submitted detailed representations on 30.07.2013 seeking condonation of the period of the so called break in view of rendition of more than two decades of services, initially as casual labourers and followed by services being rendered in the regular establishment in the time scale of pay thereby making them eligible for availing pensionary benefits, by taking into account the 50% of the casual labourer services, along with that of the regular services as had been done in the amended provisions of Rule 11 (2) of the Pension Rules. Since, the same have not been considered, this writ petition is filed.

4. The learned Additional Government Pleader submits that the respondents may be directed to consider the representations of the petitioners on merits and in accordance with law and sufficient time may be granted to the authorities.



5. In the light of the above submission, there will be a direction to the 1st respondent to consider the petitioners representations dated 30.07.2013 and pass orders on merits and in accordance with law, within a period of four months from the date of receipt of a copy of this order, after calling for appropriate report from the 2nd respondent.

The writ petition is disposed of with the above direction. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. THE PRINCIPAL SECRETARY
THE STATE OF TAMILNADU
HEALTH & FAMILY WELFARE DEPARTMENT
FORT ST. GEORGE
CHENNAI-9
2. THE DIRECTOR OF HEALTH SERVICES
PUBLIC HEALTH & PREVENTIVE MEDICINE
DMS COMPOUND CHENNAI-6

+1cc to Mr.L.Chandra Kumar, Advocate, S.R.No.21172
+1cc to the Government Pleader, S.R.No.21103

WP.No.41 of 2014

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