

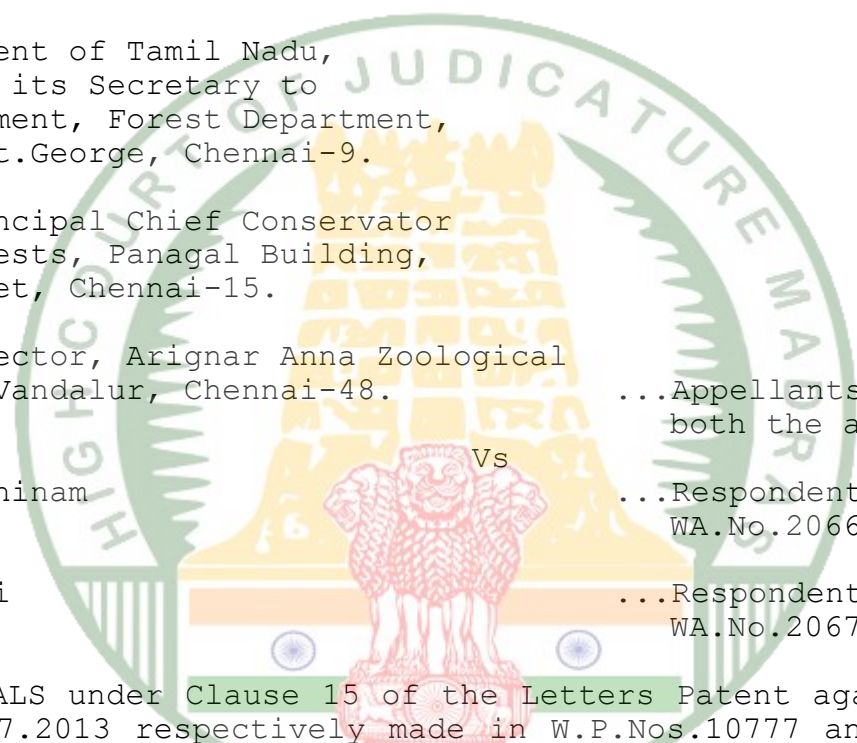
In the High Court of Judicature at Madras

Dated : 28.7.2015

Coram :

The Honourable Mr. Justice V. RAMASUBRAMANIAN
and
The Honourable Mr. Justice T. MATHIVANAN

Writ Appeal Nos. 2066 & 2067 of 2013 & M.P. Nos. 1 & 1 of 2013

- 
1. Government of Tamil Nadu,
rep. by its Secretary to
Government, Forest Department,
Fort. St. George, Chennai-9.
2. The Principal Chief Conservator
of Forests, Panagal Building,
Saidapet, Chennai-15.
3. The Director, Arignar Anna Zoological
Park, Vandalur, Chennai-48. ... Appellants in
both the appeals
- Vs
1. Tmt. Rathinam ... Respondent in
WA. No. 2066/2013
2. S. Palani ... Respondent in
WA. No. 2067/2013

APPEALS under Clause 15 of the Letters Patent against the orders dated 17.7.2013 respectively made in W.P. Nos. 10777 and 10778 of 2012 filed under Article 226 of the constitution of India WRIT OF MANDAMUS directing the Respondents to regularize the service of my Husband on and from 01.04.1991 the date on which similarly placed workers were regularized in service and grant me all consequential monetary benefits and other reliefs as per law upto the date of my Husband's death on 07.09.2006 in WP 10777/2012 and

Directing the Respondents to regularize the services of the Petitioner on and from 01.04.1991 the date on which similarly placed workers were regularized in service and grant me all consequential monetary benefits and other reliefs as per law upto the date of my resignation from service i.e. upto 14.05.2004 in W.P. 10778/2012.

For Appellants : Mr. N. Inbanathan, GA(F)
For Respondents : Mr. K. M. Ramesh

COMMON JUDGMENT

(Judgment was delivered by V.RAMASUBRAMANIAN,J

These writ appeals arise out of the orders passed by the learned Judge, allowing the writ petitions filed by the respondents in these appeals and directing the appellants/State to regularise their services.

2. Heard Mr.N.Inbanathan, learned Government Advocate (Forest) appearing for the appellants and Mr.K.M.Ramesh, learned counsel for the respondents in both the appeals.

3. The trade union, of which, the respondents in these appeals are members, raised an industrial dispute in I.D.No.477 of 1997 on the file of the Principal Labour Court, Chennai, questioning the non employment of several persons like the respondents herein. By an award dated 9.12.2003, the Labour Court directed reinstatement with continuity of service, backwages and other attendant benefits.

4. The award of the Labour Court was challenged by the appellants herein in a writ petition in W.P.No.9993 of 2004. But, the writ petition was dismissed on 26.10.2009. The writ appeal filed by the State in W.A.No.338 of 2011 was dismissed by a Division Bench by judgment dated 4.3.2011. The special leave petition filed against the same is also stated to have been dismissed by the Supreme Court. Therefore, the award of the Labour Court has attained finality.

5. Thereafter, the respondents filed writ petitions in W.P.Nos.10777 and 10778 of 2012 seeking a direction to the appellants herein to regularise their services with effect from 1.4.1991. This claim was made on the basis of an order passed by a learned Judge of this Court on 17.8.2012 in W.P.No.94 of 2012. Therefore, after extracting the order passed by the learned Judge on 17.8.2012 in W.P.No.94 of 2012 granting the benefit of regularisation in favour of persons identically placed as the respondents herein, the learned Judge allowed the writ petitions filed by the respondents. It is against the said orders that the State has come up with the above writ appeals.

6. Before proceeding further, two important aspects require to be noted. In W.A.No.2066 of 2013, which arises out of W.P.No.10777 of 2012, the writ petition itself was filed by the wife of the deceased employee. The employee, who got the benefit of an award for reinstatement with all attendant benefits, had died on 7.9.2006. Therefore, while allowing the writ petition filed by the wife in W.P.No.10777 of 2012, the learned Judge directed the benefits to be granted to the family upto the date of death.

7. In W.A.No.2067 of 2013 arising out of W.P.No.10778 of 2012, the writ petitioner had actually resigned. Hence, the learned Judge directed the appellants to grant the benefit of regularisation upto the date of his resignation namely 14.5.2004.

8. As we have pointed out earlier, the orders under appeal were passed by the learned Judge following the earlier decision in W.P.No.94 of 2012 dated 17.8.2012. It appears that the order passed in W.P.No.94 of 2012 dated 17.8.2012 granting the benefit of regularisation in favour of similarly placed persons, was confirmed by a Division Bench by a judgment dated 6.11.2012 in W.A.No.2473 of 2012. The special leave petition in S.L.P. (Civil) No.18248 of 2013 arising out of the said order was also dismissed by the Supreme Court by an order dated 18.10.2013.

9. As a consequence, the order of the learned Judge dated 17.8.2012 in W.P.No.94 of 2012 came to be implemented by the Government in G.O. 2D.No.17 Environment and Forests dated 14.3.2014. Therefore, the fact that the husband of the respondent in first writ appeal and the respondent in the second writ appeal are entitled to similar benefits cannot be doubted. But, what benefits were actually conferred upon similarly placed persons under G.O.2D.No.17 dated 14.3.2014 is not clear. That order has been passed in exercise of powers conferred by Rule 48 of the General Rules.

10. Hence, leaving this question open, the writ appeals are dismissed. No costs. Consequently, the above MPs are also dismissed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

1. The Secretary
Forest Department,
Fort St.George, Chennai -9.
2. The Principal Chief Conservator of
forests, Panagal Building,
Saidapet, Chennai - 15.
3. The Director,
Arignar Anna Zoological Park,
Vandalur, Chennai - 600 048.

+1 cc to Mr.K.M.Ramesh, Advocate, sr.38939.

+1 cc to The Spl.Goverument Pleader (Forest), sr. 38375.

W.A.Nos.2066 & 2067/2013
and M.P.Nos.1 & 1 of 2013

ts(co)
kra(07/08)