



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
W.P.(MD)Nos.15391 to 15399 of 2013

WEB COPY

A. INDIRANI	...	PETITIONER IN WP(MD) NO.15391 OF 2013
N. VANARANI	...	PETITIONER IN WP(MD) NO.15392 OF 2013
R.A. SEETHA	...	PETITIONER IN WP(MD) NO.15393 OF 2013
JOTHILAKSHMI	...	PETITIONER IN WP(MD) NO.15394 OF 2013
K.M. CHANDRA	...	PETITIONER IN WP(MD) NO.15395 OF 2013
R.MARY	...	PETITIONER IN WP(MD) NO.15396 OF 2013
MALARVIZHI	...	PETITIONER IN WP(MD) NO.15397 OF 2013
P.MANIAMMAL	...	PETITIONER IN WP(MD) NO.15398 OF 2013
M. PANDIAMMAL	...	PETITIONER IN WP(MD) NO.15399 OF 2013

-VS-

- 1 STATE OF TAMIL NADU, REP. BY ITS SECRETARY,
DEPARTMENT OF HEALTH AND FAMILY WELFARE SECRETARIATE,
ST. FORT GEORGE, CHENNAI.
- 2 THE SECRETARY,
DEPARTMENT OF FINANCE (PENSION)
SECRETARIATE, ST. FORT GEORGE CHENNAI.
- 3 THE DIRECTOR,
DEPARTMENT OF MEDICAL EDUCATION, KILPAUK,
CHENNAI.
- 4 THE DEAN,
GOVT. RAJAJI HOSPITAL, PANAGAL ROAD,
MADURAI. ... RESPONDENTS in WP(MD) Nos.15391 TO 15399 of 2013

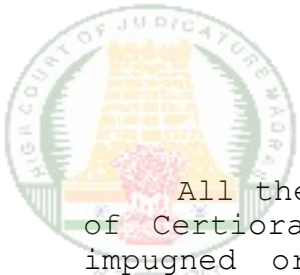
Prayer in WP(MD) Nos.15391 TO 15399 of 2013:

To issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Order letter No.9774/Nidhith/(Oivuoothiyam) Thurai / 2010 dated 11.03.2010 (Kaditha No.9774/Nidhi (Oivuouthiyam) thurai/2010 dated 11.03.2010 (கடித எண்.9774/நிதித் (ஓய்வூதியம்) துறை.2010 நாள் 11.03.2010) on the file of the 2nd respondent and quash the same as illegal, ultravires and direct the 2nd respondent to sanction and provide pensionary benefits to the petitioner reckoning her date of regularization on and from 12.02.2003, 12.02.2003, 18.02.2003, 06.04.2005, 30.01.2005, 20.02.2005, 10.02.2005, 12.02.2003 & 12.02.2003 respectively.

FOR PETITIONER
IN ALL PETITIONS

: M/S.V.RAGHAVACHARI

FOR RESPONDENTS
IN ALL PETITIONS: MR.K.P.KRISHNADOSS
GOVERNMENT ADVOCATE



COMMON ORDER

All the writ petitions have been filed seeking for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order letter No.9774/Nidhith/(Oivuoothiyam) Thurai/2010 dated 11.03.2010 (கடித எண்.9774/நிதித் (ஓய்வூதியம்) துறை.2010 நாள் 11.03.2010) on the file of the second respondent and quash the same as illegal, ultravires and direct the second respondent to sanction and provide pensionary benefits to the petitioners reckoning their date of regularization on and from 12.02.2003.

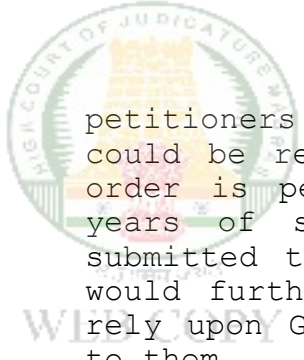
2. Heard the learned Counsel appearing for the petitioners and the learned Government Advocate appearing for the respondents.

3.The case of the petitioners is that their request for regular services have to be taken into account on the ground that they have completed 10 years of service based on G.O.M.S.No.22 Personnel and Administrative (Reforms) Department, dated 28.02.2006 and that the petitioners have been deprived of the benefits vide impugned order dated 11.03.2010 on the ground that in terms of G.O.No.408 dated 25.08.2009, there is no need to take further action on the representation dated 17.02.2010, which has been questioned by the petitioners.

4.The case of the petitioners is that they have joined services as hospital workers at Government Rajaji Hospital, Madurai, as early as in 1993 and that they were rendered 10 years of service as on 01.01.2006 and in terms of G.O.Ms.No.22, it gives benefit to the daily wage employees, who were working in the Government services, have to be regularised to appoint in time scale of pay in accordance with the service condition prescribed to the post concerned, subject to the qualification they held. According to the petitioners, more than 300 employees have been regularised and that the Government has issued G.O.M.S.No.149 dated 08.05.2007 and that the petitioners are such persons benefitted by the said G.O. According to the petitioners, since they have completed 10 years of service as early as in the year 2003, the respondent, instead of regularising their service and granting the benefits on the date from completion of ten years, they have extended the benefits only from 01.01.2006, thereby deprived the pensionary benefits. The petitioners would further contend that there was a ban for recruitment between 2001 and 2006 and because of the ban, the petitioners' services could not be regularised. After the ban was lifted, the services of the petitioners have been regularised.

5.The learned Counsel for the petitioners submitted that the petitioners' services ought to have been regularised from the year 2003 on and from the date of completion of 10 years and the pensionary benefits should have been extended. According to the petitioners, the respondent's order in depriving the benefits by the impugned order dated 11.03.2010 is arbitrary and in violation of Articles 14 and 16 of the Constitution of India.

6.Even though the fact that the petitioners have joined the services in the year 1999 has not been disputed, the learned Government Advocate appearing for the respondents would vehemently contend that G.O.M.S.No.22 was issued on 28.02.2006 and the benefits have been extended only from 01.01.2006 and that the services could be regularised on and from 01.01.2006 and on and completion of 10 years. In this case the



petitioners even though, they had joined in the year 1993, their services could be regularised only with effect from 01.01.2006 and the impugned order is perfectly in order and they have not completed the required years of service for getting the pensionary benefits. He further submitted that G.O.M.S.No..22 has been superseded by G.O.M.S.No.149. He would further contend that the petitioners cannot now at this juncture rely upon G.O.M.S.No.22 dated even assuming that the same is applicable to them.

7.It is not in dispute that the petitioners have joined service in the year 1993 and rendered 10 years of service as on 01.01.2006 and G.O.M.S.No. 22 has been issued on 28.02.2006. The only issue for consideration is as to whether the benefits to the petitioners to be extended who have completed ten years of service on and completion of 10 years or with effect from 01.01.2006 in term of G.O. M.S.No.22 dated 28.02.2006. has got to be decided.

8.For the sake of convenience, G.O.M.S.No.22 is extracted hereunder: The Hon'ble Chief Minister had announced during the Tamil Nadu Government Officials Union and Government Servants and Teachers Associations General Conference held on 08.02.2006 that the services of employees working in various Government Departments on daily wages basis who have completed more than 10 years of service as on 01.01.2006 will be regularised.

2. Based on the announcement made by the Hon'ble Chief Minister on 08.02.2006, the Government direct that the services of the daily wages employees working in all Government Departments who have rendered 10 years of service as on 01.01.2006 be regularised by appointing them in the time scale of pay of the post in accordance with the service conditions prescribed for the post concerned subject to their being otherwise qualified for the post.

3.The Departments of Secretariat may, therefore, be directed to pursue action to regularise the services of the daily wages employees working in all Government Departments, who have rendered 10 years of service as on 01.01.2006 as ordered in para 2 above, in consultation with the respective Heads of Department wherever necessary. In special cases wherein relaxation of rules is required, proposal shall be sent to Government.

4.The order issues with the concurrence of Finance Department vide its U.O.No.985/FS/P/2006, dated 28.02.2006.

9.A close scrutiny of G.O. would make it very clear that the service benefits would be extended with effect from 01.01.2006 and that nowhere it is stated that the services should not be regularised on and completion of 10 years of service. In this case, even though the petitioners have completed 10 years of service in the year 2003 that the benefits have been extended only from 01.01.2006. The only grievance of the petitioners is that the period of service from the year 2003 has not been taken into account for the purpose pensionary benefits. I find ~~service in the contention of the petitioner.~~ G.O.M.S.No.22 does not deal with the deprivation of pensionary benefits for the past services and it deals with the regularisation of service.



10. Taking note of the contentions of both sides, the impugned order is set aside and the respondents are directed to take into account the entire services of the petitioners as if they have completed 10 years of service from their date of joining, for the purpose of extending pensionary benefits. The said exercise shall be completed within three months from the date of receipt of a copy of this order.

11. The contention of the learned Government Advocate that G.O.Ms.No.22 has been superseded by G.O.Ms.No.149 and hence, the same has been extended to the petitioners may not hold good, since the petitioners have already got the accrued rights from the date on which G.O.Ms.No.22 has been issued and hence, the subsequent G.O.Ms.No.149 would not affect the rights of the petitioners.

12. With the above observations, the writ petition stands allowed. No costs.

Sd/-

Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary, State of Tamil Nadu,
Department of Health and Family Welfare,
Secretariat, St. Fort George, Chennai-600 009.

2. The Secretary, Department of Finance (Pension),
Secretariat, St. Fort George, Chennai.

3. The Director, Department of Medical Education,
Kilpauk, Chennai.

4. The Dean, Government Rajaji Hospital,
Panagal Road, Madurai.

+10ccs to M/S.V.RAGHAVACHARI, Advocate in SR.No. 40238
+1CC THE SPECIAL GOVERNMENT PLEADER, IN SR.NO. 40334

Ssl

SR : 07.08.2015 : 4p/16c

W.P. (MD) Nos.15391 to 15399 of 2013
21.07.2015