

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.35201 of 2016

M.Sardhar

.. Petitioner

Vs

1.The Government of Tamil Nadu,
Rep. by Secretary to Government,
Highways Department,
Fort St.George,
Chennai – 600 009.

2.The Director General and Chief Engineer,
Highways, Guindy,
Chennai.

3.The Divisional Engineer,
Highways, Namakkal Division,
Namakkal District.

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the first respondent to reinstate the petitioner in service so as to enable the regularization of the petitioner's service and to regularize the service of the petitioner with effect from the date of completion of three years of

service in the light of orders issued in Govt.Lt.No.4507/HM2/2009-26, dated 02.06.2011 of the first respondent and Memo No.604/Nir.4(3)/2009 dated 03.06.2011 of the second respondent and consider the petitioner's representation dated 20.08.2015.

For Petitioner :Mr.G.Punniakoti

For Respondents :Mr.R.Venkatesh
Government Advocate

ORDER

The petitioner has filed the Writ Petition praying for issuance of a Writ of Mandamus directing the first respondent to reinstate the petitioner into service and to regularize the service of the petitioner with effect from the date of completion of three years of service in the light of orders issued in Govt.Lt.No.4507/HM2/2009-26, dated 02.06.2011 by the first respondent and the Memo No.604/Nir.4(3)/2009 dated 03.06.2011 issued by the second respondent and to consider the petitioner's representation dated 20.08.2015.

2. It is the case of the petitioner that the petitioner was working as NMR worker on daily wage basis from the year 1980 to 1991 in the High ways Sub-Division, Senthamangalam, Namakkal Division. But, his service has not been regularized and absorbed in

permanent establishment. In spite of his frequent representation for regularization of his service, he is terminated from service in the year 2002.

3. Mr. V.Kaliappan and 26 others, who are similarly placed workers, agitated this issue in W.A.No.1260/2008 and the same has been dismissed on 11.12.2009. The order of this Court has been challenged before the Hon'ble Supreme Court in SLP(CC) No.14093/2010 and the Hon'ble Apex Court by an order dated 27.09.2010 dismissed the Special Leave Petition and directed the petitioners therein to give effect to the orders of the learned single judge to regularize the service of the respondents therein. On the basis of the above judgment, the Government in Lr.No.4507/HM2/2009-26 dated 02.06.2011 decided to regularize the services of the employees, who have completed 3 years of services as NMR worker and accordingly, their services were regularized.

4. As a similarly placed person, the petitioner is also entitled to the same benefits since he has completed 10 years of service on daily wage basis. The petitioner submitted a representation dated 20.08.2015 to the respondent in this regard. But, the respondents has not taken any steps to regularize his

service. Hence, the petitioner has come forward with the present writ petition.

5. Heard the learned counsel appearing for the petitioner and the learned counsel who takes notice for the respondents.

6. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court, without going into the merits of the claim of the petitioner, directs the petitioner to give a fresh representation to the 2nd respondent within a period of two weeks from the date of receipt of a copy of this Order and on receipt of the same, the second respondent is directed to consider same in the light of Govt. Lr.No.4507/HM2/2009-26, dated 02.06.2011 of the first respondent and Memo No.604/Nir.4(3)/200 dated 03.06.2011 of the second respondent and pass appropriate order on merits and in accordance with law within a period of eight weeks thereafter.

7. With the above direction, the present writ petition is disposed of. No costs.

17.10.2016

mrp

To

- 1.The Government of Tamil Nadu,
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- 2.The Director General and Chief Engineer,
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- 3.The Divisional Engineer,
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R.SUBBIAH,J

mrp

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