

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.11.2016
CORAM
THE HONOURABLE MR. JUSTICE R.SUBBIAH
Writ Petition No.39128 of 2016

P.Mariappan

... Petitioner

Vs

- 1 The State of Tamil Nadu
Rep. by its Secretary Public Works
Department Fort St. George Chennai-9.
 - 2 The Chief Engineer and
Engineer in Chief (General) Public Works
Department Chepauk Chennai-2.
 - 3 The Assistant Executive
Engineer WRO Public Works Department
Manimuthar Dam Sub Division Manimuthar-627
421 Tirunelveli
- ... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus directing the respondents to pass orders on the representation dated 12.8.2016 seeking regularization of the services of the petitioner herein on completion of ten years of Casual Labour services in the light of the order of the Division Bench made in W.A.No.493 of 2016 dated 25.4.2016 and W.A.No.631 of 2016 dated 13.6.2016.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.Dhananjayan,
Spl. Govt. Pleader

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ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a mandamus, directing the respondents to pass orders on the representation dated 12.8.2016 seeking regularization of his services on completion of ten years of

Casual Labour services in the light of the order of the Division Bench of this Court made in W.A.No.493 of 2016 dated 25.4.2016 and W.A.No.631 of 2016 dated 13.6.2016.

3. It is the case of the petitioner that he was appointed as Casual Labourer / NMR as Mazdoor Category-I on 1.12.1994. Even though he has completed ten years of service, his service was not regularized as per G.O.Ms.No.22 P & A Department, dated 28.2.2016. In this regard, he sent a representation dated 12.8.2016 to the respondents. Since the same was not considered so far, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

4. Today, when the matter was taken up for consideration, learned counsel appearing for the petitioner submitted that similarly placed persons like that of the petitioner, filed a writ petition before this Court in W.P.No.16107 of 2012 and this Court, by order dated 4.7.2012, allowed the said writ petition, against which, the Government preferred an appeal in W.A.No.493 of 2016. The Division Bench of this Court, by judgment dated 25.4.2016, dismissed the writ appeal confirming the order of the learned Single Judge. The relevant portion of the said judgment reads as follows:-

" 6. The learned Single Judge allowed the writ petition by order dated 4.7.2012, directing the appellants to regularise the services of the respondents within a period of eight weeks and also to pay the arrears of salary within a period of four weeks thereafter, but, the appellants without complying with the orders passed by the learned Single Judge, filed the writ appeal belatedly, based on G.O., viz., G.O.(Ms) No.74 Personnel and Administrative Reforms (F) Department, dated 27.6.2013, which came to be passed subsequent to the orders passed by the learned Single Judge. The orders passed by the learned Single Judge reached finality before the issuance of G.O. viz., G.O.(Ms) No.74, Personnel and Administrative Reforms (F) Department, dated 27.6.2013, the appellants without obeying the order and regularizing the services of the respondents, cannot take advantage of the subsequent G.O., which came to be passed nearly after one year of the orders passed by the learned Single Judge and deny the regularization of services of the respondents. The modalities laid down in G.O. viz., G.O.(Ms) No.74 Personnel and Administrative Reforms (F) Department, dated 27.6.2013 cannot be made applicable to the respondents.

7. In the above circumstances, we find no merit in the present writ appeal and the same fails consequently, it is dismissed. "

Hence, following the same, similar order could not passed in the present writ petition also.

5. I have also heard the learned Special Government Pleader, who has taken notice on behalf of the respondents.

6. Considering the facts and circumstances of the case and considering the submissions made on either side, without going into the merits of the claim projected by the petitioner, this Court directs the second respondent to consider the representation of the petitioner dated 12.8.2016 seeking regularization of his service and pass appropriate orders, on merits and in accordance with law and also in the light of the judgment of the Division Bench of this Court dated 25.4.2016 made in W.A.No.493 of 2016 and W.A.No.631 of 2016 dated 13.6.2016, within a period of six weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

sbi

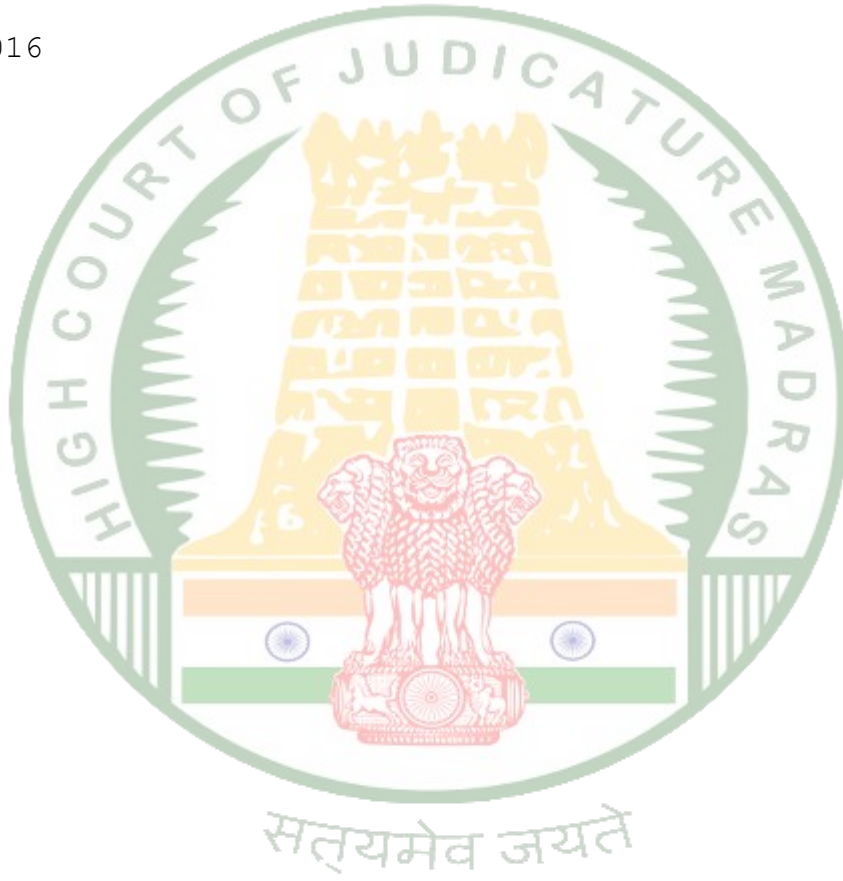
To

- 1 The Secretary
State of Tamil Nadu
Public Works
Department Fort St. George Chennai-9.
- 2 The Chief Engineer and
Engineer in Chief (General) Public Works
Department Chepauk Chennai-2.
- 3 The Assistant Executive
Engineer WRO Public Works Department
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+1 cc to M/s.L.Chandrakumar Advocate sr 64408
+1 cc to the Government Pleader sr 64619

W.P.No.39128 of 2016

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