

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.41529 of 2016

1 G.Nagammal
2 M.Pagampiriyal
3 S.Mariappan
4 T.Muruganandhi
5 E.A.Rajendran
6 P.Pechimuthu .. Petitioners

Vs

1 The State of Tamilnadu
rep. by The Secretary Public Works
Department Fort St. George Chennai-9
2 The Chief Engineer and
Engineer in Chief (General) Public Works
Department Chepauk Chennai-5
3 The Chief Engineer (Buildings)
Public Works Department Chepauk Chennai-5.... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents to regularize the services of the petitioners herein on completion of Ten years of casual labour services respectively and to extend all benefits thereto with reference to 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 and on the basis of the proposal made in vide letter No.2108/Ni2/2012 dated 20.03.2013.

For Petitioners : Mr.L.Chandrakumar

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

ORDER

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

2. The petitioners have come up with the present writ petition for a mandamus, directing the respondents to regularize their services on completion of Ten years of casual labour services respectively and to extend all benefits thereto with reference to the judgment 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 and on the basis of the proposal vide letter No.2108/Ni2/2012 dated 20.03.2013.

3. It is the case of the petitioners that they were appointed as Casual Labourers / NMRs and continued as such with regular fictional breaks. Even though they have completed ten years of service, their services were not regularized as per G.O.Ms.No.22 P & A Department, dated 28.2.2016. In this regard, they sent a representation dated 2.8.2016 to the respondents. Since the same was not considered so far, left with no other alternative, the petitioners have 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 petitioners submitted that similarly placed persons like that of the petitioners, 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 said 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 petitioners, this Court directs the second respondent to consider the representation of the petitioner dated 2.8.2016 seeking regularization of their 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 and also based on the proposal vide letter No.2108/Ni2/2012 dated 20.03.2013, 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.

सत्यमेव जयते

Sd/-

Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

sbi

To

1 The Secretary Public Works
Department Fort St. George Chennai-9

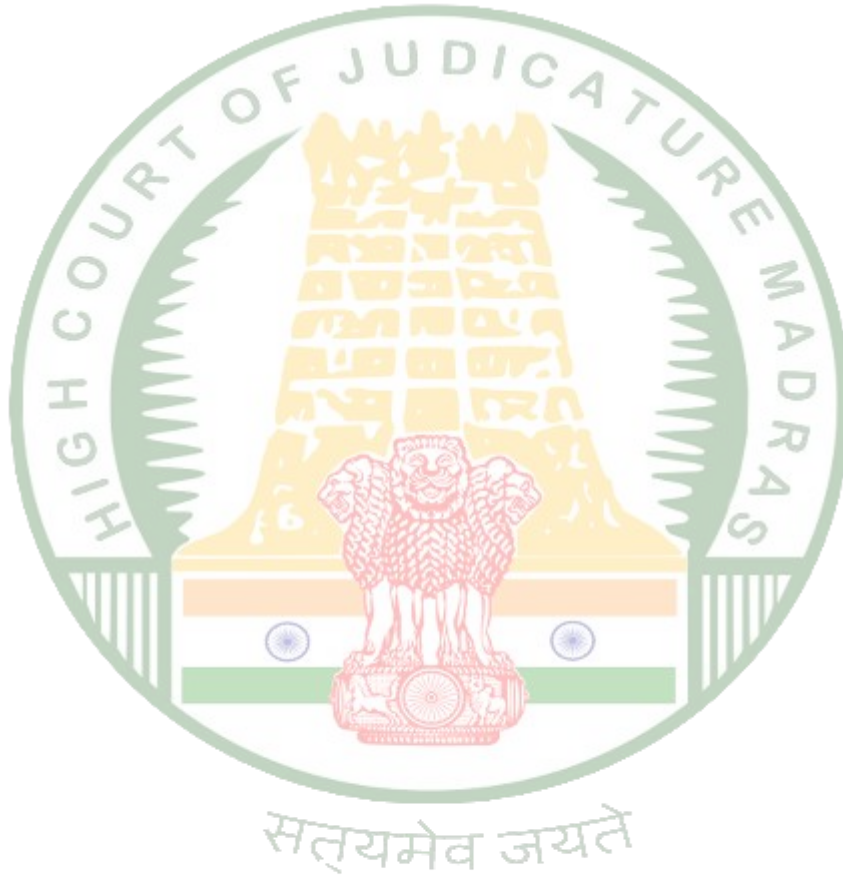
2 The Chief Engineer and
Engineer in Chief (General) Public Works
Department Chepauk Chennai-5

3 The Chief Engineer (Buildings)
Public Works Department Chepauk Chennai-5

1 cc to Mr.L. Chandrakumar, Advocate, Sr. 69303

W.P.No. 41529 of 2016

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