



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2016

CORAM:

THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

W.P. (MD) No.11106 of 2013

S.Murugan

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by the Secretary to Government,
Environment & Forests Department,
Fort St. George,
Chennai - 600 009.
2. The Principal Chief Conservator of Forests,
Panagal Building,
Chennai - 600 015.
3. The District Forest Officer,
Ramanathapuram District,
Ramanathapuram.
4. The Forest Range Officer,
Ramanathapuram @ Thangatchimadam,
Ramanathapuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of the Writ of Certiorarified Mandamus, call for the records of the 1st respondent in his proceedings in Letter No.15393/வனம்-2/2012-9 dated 09.05.2013 and quash and consequently direct the respondents to regularize the services of the petitioner as Driver from the date of his initial appointment on 15.10.1997 with consequential service and monetary benefits and to absorb him in regular establishment.

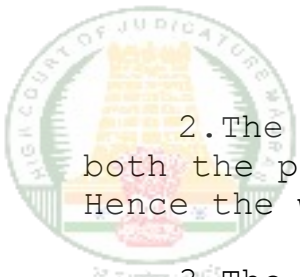
For Petitioner : Mr.P.Krishnasamy

For Respondents : Mr.K.Guru

Additional Government Pleader

O R D E R

The petitioner who is working as Driver in the Forest Department has filed writ petition challenging the order of the first respondent in rejecting his case for regularisation and with consequential relief to regularise his service with the date of his initial appointment by way of this present writ petition.



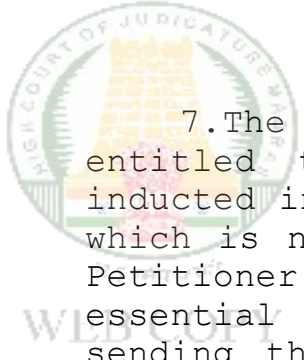
2.The writ petition is listed before me for final hearing and both the parties have consented for disposal of the writ petition. Hence the writ petition itself is taken up for final hearing.

3.The factual matrix of the case is that the petitioner S.Murugan was inducted in the respondent department on daily wages and posted as Driver on 15.10.1997 and continuously working as on date without any artificial break. His request for regularisation along with others was rejected by the 2nd respondent vide his proceedings in C.No. 49489/2008/S2 dated 07.10.2008. Aggrieved, a writ petition was filed before the Principal Seat by way of batch of writ petition in which the Petitioner is a party in W.P.No.27286 of 2008. Though the Petitioner and others have challenged the rejection order, it was stated that the proposal for regularisation was once again sent by the 2nd respondent in his Proceedings in Na.Ka.No. S2/35729/10 dated 08.11.2011 and therefore the writ petition was disposed by directing the first respondent to consider and pass orders in accordance with law and on merits within a period of 12 weeks vide order dated 04.04.2013. On the direction given in that writ petition, the first respondent has rejected the case of the petitioner along with others as he has not completed 10 years of service as mandated in G.O.Ms.No.22, P & A.R. Department dated 28.02.2006 vide his proceedings issued in Letter No.15393/வணிக-2/2012-9 dated 09.05.2013 which is challenged in this writ petition.

4.The learned counsel for the petitioner submits that the petitioner is still discharging his duty right from 15.10.1997 and has having all qualification to be regularised and also placed reliance on G.O.Ms.No.181, Public Works (C1) Department, dated 31.08.2009 as well as G.O.Ms.No.3, Environment and Forests (V5) Department dated 10.01.2013 wherein persons who have not completed 10 years of service within 01.01.2006 were regularised by relaxing the Rules. Further pointed out that the service of the Petitioner is essential and un-dispensable one and is also entitled to the similar relief and benefit.

5.Per contra, the learned Government Advocate has filed a detailed counter along with typed set of papers and vehemently placing his arguments in the light of G.O.Ms.No.22, P & A.R. Department dated 28.02.2006 that came to be subsequently clarified by way of G.O.Ms.No.74, P & A.R. Department, dated 27.06.13 stating that the Petitioner has not completed 10 years of service as on issuance of G.O.Ms.No.22, P & A.R. Department, dated 28.02.2006. Therefore, he sought for the dismissal of the writ petition.

6.I heard Mr.P.Krishnasamy, learned counsel appearing for the petitioner and Mr.K.Guru, learned Additional Government Pleader, appearing for the respondents.



7. The primary and core issue is that whether the petitioner is entitled to regularisation or not ? The petitioner is been inducted into service on 15.10.1997 and still discharging his duty which is not denied by the Respondents which will prove that the Petitioner is in continuous employment and his service is essential and un-dispensable one. The second respondent while sending the proposal has categorically held that the petitioner has put in 13 years and 8 months of service and also sought for relaxation of rules in order to regularise his service. But, the first respondent has rejected the proposal on the sole ground that they have not completed 10 years of service as on 01.01.2006 vide G.O.Ms.No.22, P & A.R. Department dated 28.02.2006 but there is no reply or refusal in regard to the extension of the benefit given to others by the Government Advocate.

8. After utilising the Petitioner's service for more than 13 years and still utilising as on date is shocking the conscious of this Court. Further, the respondents are liable as they have extracted the service of the Petitioner and based on principles of promissory estoppel and legitimate expectation, the impugned order is liable to be quashed in so far as the Petitioner is concerned. Further the Petitioner is not entitle to the regularisation from the date of initial appointment but only from the date of completion of 10 years of service.

9. In the result:

(a) the writ petition is allowed by setting aside the impugned order passed by the 1st respondent in his proceedings in Letter No.15393/அனா-2/2012-9 dated 09.05.2013, so far as the petitioner is concerned;

(b) the respondents are hereby directed to regularize the service of the petitioner from the date of completion of 10 years service and pay back all the service and monetary benefits to the petitioner;

(c) the respondents are directed to complete the said exercise within a period of three months from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government of Tamil nNdu,
Environment & Forests Department,
Fort St. George,
Chennai - 600 009.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The Principal Chief Conservator of Forests,
Panagal Building, Chennai - 600 015.



3. The District Forest Officer,
Ramanathapuram District,
Ramanathapuram.

4. The Forest Range Officer,
Ramanathapuram @ Thangatchimadam,
Ramanathapuram District.

+1 cc to Mr.P.Krishnasamy,Advocate, SR.No.78246
+1 cc to Special Government Pleader, SR.No.79039

W.P. (MD) No.11106 of 2013
01.12.2016

skn/vsa

MKV-SV-MMS-SAR 3/21.3.2017/4P-7C