



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on 20.04.2022

Orders Pronounced on :
22.04.2022

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Coram:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.Nos.29346, 4989, 4990, 7594, 14508, 15668, 29212,
13545, 7595, 10190 of 2014

and

W.P.Nos.34113 & 34555 of 2013

and

W.P.Nos.18884 and 18885 of 2016

and

W.P.Nos.28336 of 2017

and

W.M.P.No.30443, 30442 of 2017

- 1 G.SIVAGIGANESAN
- 2 V.THAMBIDURAI
- 3 S.SENTHIL
- 4 M.RAJA
- 5 M.JAYAKUMAR
- 6 M.MARUDAMUTHU

...PETITIONERS in W.P.No.29346 of 2014

K.NAGAI AH

... PETITIONER in WP No.4989 of 2014

K.ARULPRAKASAM

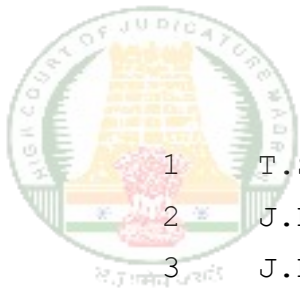
... PETITIONER in WP No.4990 of 2014

- 1 S.JOHN CHARLES
- 2 A.RAJA STALIN
- 3 V.SARAVANAKUMAR
- 4 B.S.CHANDRA MAHALINGAM

... PETITIONER in WP No.7594 of 2014

K.RAJESWARI

... PETITIONER in WP No.14508 of 2014



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1 T. SEENUVASALU
2 J. RUKMANANDAM
3 J. KANCHANA
4 T. R. THIRUMALAI
5 R. SANTHI

... PETITIONER in WP No.15668 of 20

1 M. KUMAR
2 C. PAULRAJ
3 S. BASKARAN
4 P. SAMPATH KUMAR
5 N. MOHANRAJ
6 A. P. PUSPHANATHAN
7 C. PAULRAJ @ PALAN
8 R. VIJAYARANI
9 L. MARY QUINTILIIYA

... PETITIONER in WP No.29212 of 2014

1 M. PADMAVATHI
2 P. KALA

... PETITIONER in WP No.13545 of 2014

1 S. JOHN CHARLES
2 A. RAJA STALIN
3 V. SARAVANAKUMAR
4 B. S. CHANDRA MAHALINGAM

... PETITIONER in WP No.7595 of 2014

S. V. TAMILMANI

... PETITIONER in WP No.10190 of 2014

A. SURESH KUMAR

... PETITIONER in WP No.18884 of 2016

N. BALA

... PETITIONER in WP No.18885 of 2016

K. GOPINATHAN

... PETITIONER in WP No.28336 of 2017

M. KRISHNAMOORTHY

... PETITIONER in WP No.34113 of 2013



P.SUBRAMANI

... PETITIONER in WP No.34555 of 2013

VS.

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1. STATE OF TAMIL NADU, REP. BY ITS
SECRETARY, PUBLIC WORKS DEPARTMENT,
FORT ST.GEORGE, CHENNAI - 9.
2. THE CHIEF SECRETARY TO GOVERNMENT,
PERSONNEL & ADMINISTRATIVE REFORMS (F) DEPARTMENT,
FORT ST.GEORGE, CHENNAI - 9.
3. THE PRINCIPAL CHIEF ENGINEER (BUILDINGS) AND
CHIEF ENGINEER (GENERAL), PUBLIC WORKS DEPARTMENT,
CHEPAUK, CHENNAI - 5.

... RESPONDENTS in WP No.29346 of 2014

- 1 THE CHIEF SECRETARY TO
GOVERNMENT PERSONNEL AND ADMINISTRATIVE
REFORMS (F) DEPARTMENT SECRETARIAT
CHENNAI-9
- 2 THE PRINCIPAL SECRETARY TO
GOVERNMENT RURAL DEVELOPMENT AND PANCHAYAT
RAJ DEPARTMENT SECRETARIAT CHENNAI-9
- 3 THE DIRECTOR OF RURAL
DEVELOPMENT AND PANCHAYAT RAJ PANAGAL
BUILDINGS SAIDAPET CHENNAI-15

... RESPONDENTS in WP No.4989 & 4990 of 2014

- 1 THE STATE OF TAMILNADU
REP. BY ITS SECRETARY PUBLIC WORKS
DEPARTMENT FORT ST. GEORGE CHENNAI-9.
- 2 THE SECRETARY TO GOVERNMENT
PERSONNEL AND ADMINISTRATIVE REFORMS
DEPARTMENT FORT ST. GEORGE CHENNAI-9.
- 3 THE ENGINEER IN CHIEF AND
CHIEF ENGINEER PUBLIC WORKS DEPARTMENT
CHEPAUK CHENNAI-5.

... RESPONDENTS in WP No.7594 of 2014

- 1 THE SECRETARY TO GOVERNMENT
PUBLIC WORKS DEPARTMENT SECRETARIAT
CHENNAI - 9



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2 THE ENGINEER IN CHIEF
(BUILDINGS) CHIEF ENGINEER (BUILDINGS)
CHENNAI REGION CHEPAUK CHENNAI 5

3 THE CHIEF ENGINEER (GENERAL)
PUBLIC WORKS DEPARTMENT CHEPAUK
CHENNAI 5

... RESPONDENTS in WP No.14508 of 2014

1 THE STATE OF TAMILNADU
REP. BY ITS SECRETARY PUBLIC WORKS
DEPARTMENT FORT ST. GEORGE CHENNAI-9.

2 THE CHIEF SECRETARY TO
GOVERNMENT PERSONNEL AND ADMINISTRATIVE
REFORMS (F) DEPARTMENT FORT ST. GEORGE
CHENNAI-9.

3 THE PRINCIPAL CHIEF ENGINEER
(BUILDINGS) & CHIEF ENGINEER (GENERAL)
CHENNAI REGION PUBLIC WORKS DEPARTMENT
CHEPAUK CHENNAI-5.

4 THE CHIEF ENGINEER
WRO PWD CHENNAI REGION CHEPAUK
CHENNAI-5.

5 THE CHIEF ENGINEER
(GROUND WATER) PWD THARAMANI
CHENNAI-113.

... RESPONDENTS in WP No.15668 of 2014

1 THE STATE OF TAMILNADU
REP BY ITS SECRETARY PUBLIC WORKS
DEPARTMENT FORT ST. GEORGE CHENNAI 9

2 THE CHIEF SECRETARY TO
GOVERNMENT PERSONNEL AND ADMINISTRATIVE
REFORMS (F) DEPARTMENT
FORT ST. GEORGE
CHENNAI 9

3 THE PRINCIPAL CHIEF
ENGINEER (BUILDINGS) AND CHIEF ENGINEER
(GENERAL) PUBLIC WORKS DEPARTMENT CHEPAUK
CHENNAI 5

... RESPONDENTS in WP No.29212 of 2014



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1 THE STATE OF TAMILNADU
REP BY ITS SECRETARY PUBLIC WORKS
DEPARTMENT FORT ST.GEORGE CHENNAI -9

2 THE CHIEF SECRETARY TO GOVT
PERSONNEL AND ADMINISTRATIVE REFORMS (F)
DEPARTMENT FORT ST.GEORGE CHENNAI - 9

3 THE PRINCIPAL CHIEF ENGINEER
(BUILDINGS) & CHIEF ENGINEER (GENERAL)
PUBLIC WORKS DEPARTMENT CHEPAUK CHENNAI 5

4 THE EXECUTIVE ENGINEER
ADYAR SUB DIVISION PUBLIC WORKS DEPT
ADYAR CHENNAI 28

... RESPONDENTS in WP No.13545 of 2014

1 THE STATE OF TAMILNADU
REP. BY ITS SECRETARY PUBLIC WORKS
DEPARTMENT FORT ST. GEORGE CHENNAI-9.

2 THE SECRETARY TO GOVERNMENT
PERSONNEL AND ADMINISTRATIVE REFORMS
DEPARTMENT FORT ST. GEORGE CHENNAI-9.

3 THE ENGINEER IN CHIEF AND
CHIEF ENGINEER PUBLIC WORKS DEPARTMENT
CHEPAUK CHENNAI-5.

... RESPONDENTS in WP No.7595 of 2014

1 THE SECRETARY TO GOVERNMENT
PUBLIC WORKS DEPARTMENT SECRETARIAT
CHENNAI 9

2 THE CHIEF ENGINEER AND
ENGINEER IN CHIEF PUBLIC WORKS DEPARTMENT
(BUILDINGS) CHEPAUK CHENNAI 5

3 THE CHIEF ENGINEER
PUBLIC WORKS DEPARTMENT (WRO) CHENNAI
REGION CHEPAUK CHENNAI 5

... RESPONDENTS in WP No.10190 of 2014

1 THE PRINCIPAL SECRETARY TO GOVERNMENT
PUBLIC WORKS DEPARTMENT
FORT ST.GEORGE CHENNAI - 9

2 ENGINEER IN CHIEF (GENERAL) &
CHIEF ENGINEER (BUILDINGS) CHENNAI ZONE,
PUBLIC WORKS DEPARTMENT CHENNAI - 5.



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3 THE EXECUTIVE ENGINEER
PUBLIC WORKS DEPARTMENT
BUILDINGS MAINTENANCE DIVISION
MEDICAL WORKS, CHEPAUK
CHENNAI - 5.

4 THE ASSISTANT EXECUTIVE ENGINEER
PUBLIC WORKS DEPARTMENT
BUILDINGS MAINTENANCE SUB DIVISION - III
MEDICAL WORKS, EGMORE
CHENNAI - 8.

... RESPONDENTS IN WP NOS.18884 & 18885 OF 2016

1 THE STATE OF TAMIL NADU
REP BY ITS SECRETARY PUBLIC WORKS
DEPARTMENT FORT ST. GEORGE CHENNAI 09

2 THE CHIEF ENGINEER (GENERAL)
WRO/PWD & ENGINEER-IN-CHIEF CHEPAUK
CHENNAI 600 005

3 THE EXECUTIVE ENGINEER (WRO)
PUBLIC WORKS DEPARTMENT KOTTAR DIVISION
NAGERCOIL KANYAKUMARI DIST

... RESPONDENTS in WP No.28336 of 2017

1 THE PRINCIPAL SECRETARY TO
GOVERNMENT RURAL DEVELOPMENT AND PANCHAYAT
RAJ DEPARTMENT SECRETARIAT CHENNAI-9.

2 THE DIRECTOR OF RURAL
DEVELOPMENT AND PANCHAYAT RAJ PANAGAL
BUILDINGS SAIDAPET CHENNAI-15.

3 THE DISTRICT COLLECTOR
THIRUVANNAMALAI DISTRICT @ THIRUVANNAMALAI

... RESPONDENTS in WP No.34113 of 2013

1 THE STATE OF TAMILNADU
REP. BY ITS SECRETARY PUBLIC WORKS
DEPARTMENT FORT ST. GEORGE
CHENNAI - 9.

2 THE CHIEF ENGINEER
(GENERAL) & ENGINEER IN CHIEF PUBLIC WORKS
DEPARTMENT CHEPAUK
CHENNAI - 5.



3 THE CHIEF ENGINEER
WRO, PWD, CHENNAI REGION CHEPAUK CHENNAI - 5.

4 THE EXECUTIVE ENGINEER (WRO)
UPPER PAALAR BASIN DIVISION
VELLORE - 6.

... RESPONDENTS in WP No.34555 of 2013

Prayer in WP No.29346 of 2014: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for records relating to the second respondent's order made in G.O.Ms.No.74 P & AR Department dated 27.06.2013 to an extent of paragraph - 6 therein is concerned and that of the order of the first respondent made in Letter No.1298/C2/2010-24 dated 31.01.2014, to quash the same insofar as petitioners are concerned and to consequently direct the respondents to regularize the services of the petitioners in completion of 10 years of services and to extend all benefits both service and monetary.

Prayer in WP Nos.4989 & 4990 of 2014
to call for the records pertaining to the order of the first respondent herein passed in G.O. (Ms).No.74, Personnel and Administrative Reforms (F) Department, dated 27.6.2013 and the consequential order of the second respondent herein passed in Letter NO. 7535/Para.3/ 2012-5 Rural Development and Panchayat Raj Department dated 9.7.2013 and quash the same and consequently direct the respondents herein to regularize the petitioners service with effect from the date of appointment and appoint the petitiner as Office Assistant with all consequential service and monetary benefits

Prayer in WP No.7594 of 2014
Calling for the entire records relating to the impugned Government Order passed by the second respondent herein in G.O.Ms. No.74 Personnel and Administrative Reforms Department 27.6.2013 and which G.O.Ms. No.74 is relied on and acted upon by the first respondent in Letter No.33480/ 2010-27 dated 24.1.2014 and quash the same in so far as the petitioners are concerned

Prayer in WP No.14508 of 2014
to call for the records pertaining to the order of the first respondent herein passed in letter No.5327/C2/2014-2 dated 8.4.2014 rejecting the petitioners request for regularization of service and quash the same and consequently direct the first respondent herein to regularize the petitioners services as work Inspector Grade-3or Irrigation Assistant with all consequential service and monetary benefits



Prayer in WP No.15668 of 2014

Calling for records relating to the second respondent order made in G.O.Ms.No.74 P & AR (F) Department dated 27.06.2013 to an extent of paragraph-6 therein is concerned and that of the order of the first respondent made in Letter No.12661/C2/2013-4 dated 13.02.2014, to quash the same and to consequently direct the respondents to regularize the services of the petitioners on completion of 10 years of service and to extend all benefits both service and monetary

Prayer in WP No.29212 of 2014

calling for records relating to the second respondents order made in G.O.Ms.No.74 P & AR(F) Department dated 27.06.2013 to an extent of paragraph 6 therein is concerned and that of the order of the third respondent made in letter No.S4(1)/23131/2005 dated 25.03.2014 to quash the same in so far as petitioners are concerned and to consequently direct the respondents to regularize the services of the petitioners on completion of 10 years of services and to extend all benefits both service and monetary

Prayer in WP No.13545 of 2014

Calling for records relating to the second respondents order made in G.O.Ms.No.74 P & AR (F) Department dated 27.6.2013 to an extent of paragraph-6 therein is concerned and that of the order of the third respondent made in Letter No. S4(1)/22215/2009 dated 03.02.2014 to quash the same and to consequently direct the respondents to regularize the services of the petitioners on completion of 10 years of services and to extend all benefits both service and monetary

Prayer in WP No.7595 of 2014

Calling for the entire records relating to the impugned Letter No.33480/C2 2010-27 dated 24.1.2014 issued by the first respondent and quash the same and direct the first respondent to comply forthwith with the orders of this Honourable Court passed in W.P. No.24953 of 2010 dated 11.11.2010

Prayer in WP No.10190 of 2014

to call for the records pertaining to the order of the 1st respondent herein passed in Letter No. 22624/C2/2012-9 dt 24.2.2014 rejecting the petitioners request for regularization of service and quash the same and consequently direct the 1st respondent herein to regularize the petitioners services as Work Inspector Grade 2 with all consequential service and monetary benefits

Prayer in WP Nos.18884 & 18885 of 2016

Calling for the records of the 2nd Respondent in connection with the impugned order passed by him in Letter.No.S4(1) / 43355 /



2015 dated 22.12.2015 and quash the same and direct the respondents to bring the petitioner into regular time scale of pay from the date of his temporary appointment by taking into consideration the continuous service rendered for more than 10 years in relaxation of the rules as was done in the case similarly placed persons and grant him all consequential services and monetary benefits.

Prayer in WP No.28336 of 2017

calling for the records pertaining to the impugned order dated 03.03.2016 Ref. Letter No. S.4(2)/ 24727/ 2016/ Date 03.03.2016 passed by the 2nd Respondent and quash the same and direct the Respondents Authorities to regularize the service of the petitioner with effect from 01.01.2006 Similarly to the Mazdoors whose service were regularized from 01.01.2006

Prayer in WP No.34113 of 2013

Directing the first respondent herein to regularize the petitioner services on completion of 10 years of service without backwages and consequently direct the respondent herein to take into account the petitioner period of service from 10.5.1997 till date of regularization for the purpose of calculating pension alone in accordance with rules

Prayer in WP No.34555 of 2013

directing the respondents to consider the claim of the petitioner for regularization of his services on completion of 10 years of Casual Labourers services as per various Government Orders on the subject, on the basis of representation dt. 12.07.2013 with all consequential benefits within a time to be stipulated by this Honble Court.

For petitioner : Mr.Ravi Shanmugam
for Ms.N.R.Jasmine Padma for Mr.L.Chandrakumar
in W.P.29346/2014, 34555/2013, 29212/2014,
15668/2014 & 13545 of 2014
Mr.K.Venkatramani, Senior Counsel
for M/s. M.Muthappan in W.P.Nos.18884 &
18885/2016
Mr.Ravi Shanmugam in W.P.Nos.4989, 4990/2014,
34113, 14508 & 10190/2014
Mr.P.Chandrasekaran in W.P.Nos.7594 &
7595/2014
Mr.S.Thankasivam in W.P.No.28336/2017

For respondents : Mr.S.Silambanan, Additional Advocate General,
Assisted by Mr.L.S.M.Hasan Fizal,
Additional Govt.Pleader for R1 & R3 in



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W.P.29346/2014, 7594, 7595/2014, 29212/2014, 34113/2013, 28336/2017, 10190/2014, 14508/2014

Respondents 1 to 4 in W.P.Nos.18884, 18885/2016 & 34555/2013

Respondents 2 & 3 in W.P.4989 & 4990/2014

Respondents 1, 3 to 5 in W.P.No.15668/2014

Respondents 1, 3 & 4 in W.P.No.13545/2014

Mr.G.Ameedius, Government Advocate for R2 in W.P.No.29346/2014, 7594, 7595, 29212/2014, 34113/2013, 28336/2017, 15668/2014, 10190/2014, 13545/2014, 14508/2014 & R1 in W.P.4989 & 4990/2014

COMMON ORDER

These batch of Writ Petitions have come on remand of the orders passed by the Division Bench of this Court in Writ Appeal Nos.2875, 2644 & 1015 to 1019 of 2018 dated 16.08.2019.

2.The short facts and circumstances that gave rise to the remit by the Division Bench of this Court are stated hereunder.

i) The writ petitioners are the employees of State Government and they approached this Court in various writ petitions which are part of the consideration of this Court herein, seeking regularization of service principally on the ground that they had been continuing in service uninterruptedly and continuously for several years.

ii)The Government, in response to various representations by scores of employees, seeking regularisation of their services on the ground that they had been uninterruptedly and continuously employed for several years, had issued G.O.Ms.No.22 dated 28.02.2006 providing for regularization for such of those employees in various departments who had completed 10 years of service as on 01.01.2006. On the basis of the said G.O., several hundreds of employees had been conferred with the benefit of regularisation of their services.

iii) Subsequently, the employees who had not completed 10 years of continuous service as on 01.01.2006 but completed 10 years of service after 01.01.2006, had approached this Court by filing number of writ petitions. Those writ petitions were heard and several orders came to be passed directing regularization of their services also in terms of G.O.Ms.No.22 Personnel and Administrative Reforms Department, dated 28.02.2006. Some of the orders were appealed against and the Division Bench of this Court also confirmed the same. The Special Leave Petitions filed



against those orders also came to be rejected. Thus, the petitioners therein, though not strictly stated to come within the framework of G.O.Ms.No.22 dated 28.02.2006, but their services were ordered to be regularized, came to be regularized eventually, as the verdicts in their cases had reached finality in their favour.

iv) The Government, in order to restrict the grant of benefit of regularization only to such of those employees who had completed 10 years of service as on 01.01.2006 had issued subsequently G.O.Ms.No.74 dated 27.06.2013. The Government Order inter alia laid down the restriction as to the grant of the benefit of regularization only to the employees who had completed 10 years of service as on 01.01.2006 and the said Government Order was given retrospective effect from 01.01.2006. The retrospective effect given to the said Government Order was subject matter of challenge in a batch of Writ petitions before this Court.

v) This Court after consideration of the rival submissions and the case laws on the subject matter allowed all the Writ petitions vide its order dated 22.09.2020. This Court has ultimately held that G.O.Ms.No.74 P&A.R. Department dated 27.06.2013, retrospectively restricting the benefit to the employees who have completed 10 years of service only as on 01.01.2006 was unconstitutional. This Court principally reasoned that by a subsequent G.O., the rights accorded to the Government servants cannot be taken away and this plea for regularisation cannot be negated by operating the G.O. retrospectively.

3. The batch of writ petitions allowed by this Court was a subject matter of Writ Appeals in W.A.Nos.2875, 2644 of 2018 and 1015 to 1019 of 2018. The Division Bench heard the appeals and disposed of the same by order dated 16.08.2019 holding that it was well within the prerogative of the Government to change its policy by superseding its earlier G.O.Ms.No.22 Personnel and Administrative Reforms (F) Department, dated 28.02.2006 vide G.O.Ms.No.74, Personnel and Administration Reforms(F) Department dated 27.06.2013. By holding as such, the Division Bench has held in paragraph 29 which is extracted hereunder.

"29. The order passed by the learned single Judge quashing clause 6 is set aside. The writ petitions are remitted to the writ court for fresh consideration to decide as to whether each of the respondents are eligible for regularization in accordance with the order in G.O.Ms.74, Personnel and Administrative Reforms (F) Department, dated 27 June 2013, or any other



relevant Government Orders governing the matter. The individual cases must be decided on merits, taking into account the nature of service and the period of such service."

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Thus, these writ petitions are back on the lap of this Court for consideration of the claims of these petitioners without reference to the G.O.Ms.No.22. In view of the present remit before this Court, the only aspect that is left open for further consideration of the claim of these writ petitioners is dehors the conclusion by this Court in setting aside the offending para No.6 of the G.O.Ms.No.74, dated 27.06.2013, the order of this Court could still be sustained or not? The cardinal issue before this Court is whether the employees' claim for regularisation could still be considered favourably on other grounds or not?

4. The answer to the above question would have to be found by making reference to some of the orders passed by the Division Bench of this Court as relied upon by the learned counsel for the writ petitioners. The first of the decisions of the Division Bench of this Court was dated 21.02.2017 rendered in W.A.(MD). No.913 of 2015. The learned Division Bench of this Court on this issue after referring to various objections from the Government on the retrospective implementation of G.O.Ms.No.74 dated 27.06.2013 has held in paragraphs 6 to 10 as follows:

"6. We have heard the learned Special Government Pleader appearing for the appellants and the learned counsel appearing for the respondents.

7. This appeal has been filed based on the judgment of the Hon'ble Supreme Court in Civil Appeal Nos.2726 to 2729 of 2014, dated 21.02.2014. According to the appellants, as per the dictum laid down in the said judgment, the respondents are not entitled for regularization. That apart, the learned Special Government Pleader, by relying upon G.O.(Ms)No.74, Personnel and Administrative Reforms (F) Department, dated 27.06.2013, has submitted that as per the said Government Order, the services of the full time daily wage employees who were initially appointed on full time basis in consultation with the Employment Exchange to discharge the function of the post in the Tamil Nadu Basic Service and those who have completed 10 (ten) years of service as on 01.01.2006 shall be regularized against



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regular vacancies in the sanctioned cadre strength. In the case on hand, the respondents were not appointed in consultation with the Employment Exchange. Therefore, they are not entitled for regularization.

8. Keeping in mind the above said submission, we have carefully gone through the judgment relied upon by the learned Special Government Pleader. The said judgment dealt with the issue relating to Part Time Sweeper. Coming to the case on hand, we find that the respondents are the daily wage employees and hence, the said judgment cannot be made applicable to the facts of the case to deny the claim of the respondents for regularization.

9. Yet another submission made by the learned Special Government Pleader is that as per G.O.(Ms)No.74, Personnel and Administrative Reforms (F) Department, dated 27.06.2013, the services of the full time daily wage employees who were initially appointed on full time basis in consultation with the Employment Exchange to discharge the function of the post in the Tamil Nadu Basic Service and those who have completed 10 (ten) years of service as on 01.01.2006 shall be regularized. However, we find that the said Government Order came into effect only on 27.06.2013 and it was issued by way of clarification of G.O.Ms.No.22, Personnel and Administrative Reforms (F) Department, dated 28.02.2006. G.O.Ms.No.74 was issued only on 27.06.2013, whereas, the respondents were appointed in the year 1984, 1995 and 1998 respectively, that is to say, much earlier to the said Government Order. Therefore, the second submission made by the learned Special Government Pleader cannot be accepted. Therefore, we are of the opinion that absolutely, there is no infirmity in the order passed by the learned Single Judge warranting interference at the hands of this Court.

10. In fine, the Writ Appeal fails and the same is dismissed accordingly. The



5. In the above case, the Division Bench has confirmed the order of the learned single Judge in respect of the employees who have completed 10 years of service after 01.01.2006. In that case, Division Bench also held that G.O.Ms.No.74 was issued well after the appointment of the casual employees therein and the same cannot negate the rights of the petitioners therein. By such reasoning, the Division Bench confirmed the order of the learned single Judge granting the benefit of regularisation.

"3. Even though the appellant is right in contending that as on 01 January 2006, the writ petitioner had not completed 10 years and therefore he cannot avail the benefit in terms of G.O.Ms.No.22, Personnel and Administrative Reforms Department, dated 28 February 2006, we are still not inclined to interfere with the order passed by the learned Single Judge. We note that in similar cases, the Government had granted relaxation and regularized such services. For instance in G.O.Ms.No.3, Environment and Forest Department, 2013, dated 10 January 2013, the services of as many as 14 persons who were working in the appellant department were regularized. In fact the said 14 persons had completed 10 years only as on 01 January 2011. It is not the case of the appellant that the writ petitioner had gained back door entry.

4. Admittedly, he had been in service right from 15 October 1997. There is no break in service. To deny the benefit of the regularization to an employee, who had completed 19 years as on date would not be just or equitable. Taking into account the special circumstances obtaining in this case, we do not wish to interfere with the order of



regularization made in favour of the respondent herein."

7. As facts would disclose, against the order, Special Leave Petition was filed and the same was also dismissed vide order dated 04.09.2013 (SLP.Diary No.29276/2019) by the Hon'ble Supreme Court.

8. One the Judges who was part of the Division Bench who had remitted the matter to this Court has in fact, is part of the other Division Bench but taken a contrary view in the matter, in favour of claim for regularisation. In W.A.No.1133 of 2014 dated 29.06.2018, the Division Bench referred to the challenge made against the judgment of the Division Bench in identical issue and recorded the fact of dismissal order of the Hon'ble Supreme Court in S.L.P. The Division Bench has referred to certain earlier orders and finally ruled as under:

"2.The respondent was appointed as a Night Watchman in the office of the 4th appellant on 02.07.1992. He has been working as such since then. He made a representation on 09.04.2012 seeking regularisation of the services in terms of G.O.Ms.No.22, P & AR (F) Department, dated 28.02.2006. Since the said request is not complied with, the respondent had approached this Court seeking regularisation as aforesaid.

3. Taking note of similar orders passed by this Court in WP (MD) No.11707 of 2006 dated 22.12.2006 which was confirmed in WA (MD) No.391 of 2007 on 25.10.2007 and orders in WP No.18126 of 2008 dated 29.07.2008, which was confirmed in WA No.230 of 2009 dated 03.08.2009, the learned Single Judge had allowed the Writ Petition directing regularisation of the services of the respondent.

4. Aggrieved, the State is before us by way of this intra Court Appeal.

5. Mr.V.Anandhamoorthy, learned Additional Government Pleader appearing for the appellants and Mr.G.Elanchezhiyan, learned counsel appearing for the respondent.

6. Mr.V.Anandhamoorthy, learned Additional Government Pleader appearing for the appellants would contend that in view of the subsequent Government Order in G.O.Ms.74, P & AR (F) Department, dated 27.06.2013, the respondent cannot be



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regularised as the same would amount to creation of supernumerary post. Very same issue was considered by the Division Bench of this Court in WA No.273 of 2016 dated 16.03.2016. The same contention raised by the learned Additional Government Pleader placing reliance on G.O.Ms.74, P & AR (F) Department, dated 27.06.2013 was rejected by the Division Bench. The Division Bench had concluded that the subsequent G.O. cannot take away the rights, which are already accrued to the respondent therein.

7. The Special Leave Petition filed by the State challenging the said judgment of the Division Bench in WA No.273 of 2016 was also dismissed by the Hon'ble Supreme Court on 25.01.2018. We see no reason to take a different view.

8. Hence the Writ Appeal fails and the same is dismissed, confirming the order of the learned Single Judge. However, in the circumstances there will be no order as to costs. Consequently, the connected miscellaneous petition is closed."

9. One other Division Bench had occasion to consider similar issue in W.A.No.493 of 2016 dated 25.04.2016. The Division Bench has held that the rights already accrued to the employees cannot be taken away by the issuance of the subsequent G.O. and dismissed the appeal. The observation of the Division Bench in paragraph Nos.6 and 7 is extracted hereunder:

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 27.06.2013, 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



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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. No costs. The connected miscellaneous petition is closed.

The said Division Bench decision was followed by another Division Bench subsequently in W.A.No.631 of 2016 dated 13.06.2016.

10. In view of the numerous decisions which had upheld the orders of the learned single Judge granting the benefit of regularisation for even such of those employees who had completed 10 years of service after 01.01.2006, it cannot be gainsaid that by restoration of paragraph 6 of G.O.Ms.No.74 dated 27.06.2013 the substratum of the claim of the petitioner would stated to be negated or reversed.

11. The Government itself has recognised the directions issued by this Court in various writ petitions and had implemented the same by regularising the services of several casual employees who had completed 10 years of service after 01.01.2006. In that view of the matter, Articles 14 and 16 are directly attracted in support of the claims of these writ petitioners. Therefore, their claims need not ultimately dependent on this Court setting aside paragraph No.6 of G.O. Ms.No.74 dated 27.06.2013 and their claims could otherwise also be allowed and sustained on the basis of the decisions of this Court rendered in the interregnum between 2006 and 2013 where two G.Os. were in force (G.O.Ms.No.22 and G.O.Ms.No.74). The above narrative would also point the fact that some of the decisions of this Court granting regularisation have also been confirmed by the Hon'ble Supreme Court.

12. In the light of the finality being reached in the matter, the present remit to this Court becomes legally immaterial for this Court adopt a different legal position in the matter. Further, one of the learned Judges of the Division



Bench which remitted the matter to this Court presided over another Bench and had taken a contrary decision in the matter in favour of the employees in W.A.No.1133/2014 dated 29.06.2018.

13. In the light of expressing diametrically opposite views in the matter and also in the light of the various other decisions of this Court confirmed in Writ Appeals by various Division Benches, the present view taken by the Division Bench which was the basis for remitting the matter to this Court may not have any material impact in consideration of the matter in question.

14. On the whole, this Court is of the view that these petitioners even otherwise are entitled for grant of the relief. The writ petitions stand allowed accordingly.

15. There shall be a consequential direction to the respondents to grant the benefit of regularisation to the writ petitioners with effect from the date they were originally appointed and grant them all benefits like pay fixation, continuity of service and other service benefits on notional basis.

16. The respondents are directed to pass appropriate orders in this regard within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

/True Copy//

Sub Assistant Registrar

vsi
To

- 1 THE SECRETARY,
PUBLIC WORKS DEPARTMENT,
FORT ST.GEORGE, CHENNAI - 9.
- 2 THE CHIEF SECRETARY TO GOVERNMENT,
PERSONNEL & ADMINISTRATIVE REFORMS (F) DEPARTMENT,
FORT ST.GEORGE, CHENNAI - 9.
- 3 THE PRINCIPAL CHIEF ENGINEER (BUILDINGS) AND
CHIEF ENGINEER (GENERAL)
PUBLIC WORKS DEPARTMENT,
CHEPAUK, CHENNAI - 5.



- 4 THE PRINCIPAL SECRETARY TO GOVERNMENT
RURAL DEVELOPMENT AND PANCHAYAT RAJ
DEPARTMENT SECRETARIAT CHENNAI-9
- 5 THE DIRECTOR OF RURAL
DEVELOPMENT AND PANCHAYAT RAJ PANAGAL
BUILDINGS SAIDAPET CHENNAI-15.
- 6 THE SECRETARY
STATE OF TAMILNADU
PUBLIC WORKS DEPARTMENT
FORT ST. GEORGE CHENNAI-9.
- 7 THE SECRETARY TO GOVERNMENT
PERSONNEL AND ADMINISTRATIVE REFORMS DEPARTMENT
FORT ST. GEORGE CHENNAI-9.
- 8 THE ENGINEER IN CHIEF AND
CHIEF ENGINEER PUBLIC WORKS DEPARTMENT
CHEPAUK CHENNAI-5.
- 9 THE ENGINEER IN CHIEF (BUILDINGS)
CHIEF ENGINEER (BUILDINGS)
CHENNAI REGION CHEPAUK CHENNAI - 5.
- 10 THE CHIEF ENGINEER (GENERAL)
PUBLIC WORKS DEPARTMENT
CHEPAUK CHENNAI - 5.
- 11 THE CHIEF ENGINEER
WRO, PWD, CHENNAI REGION,
CHEPAUK CHENNAI - 5.
- 12 THE CHIEF ENGINEER,
(GROUND WATER) PWD
THARAMANI CHENNAI - 113.
- 13 THE EXECUTIVE ENGINEER
ADYAR SUB DIVISION
PUBLIC WORKS DEPARTMENT
ADYAR, CHENNAI - 28.
- 14 THE ENGINEER IN CHIEF (GENERAL) &
CHIEF ENGINEER (BUILDINGS)
CHENNAI ZONE, PUBLIC WORKS DEPARTMENT
CHENNAI - 5.
- 15 THE EXECUTIVE ENGINEER,
PWD, BUILDINGS MAINTENANCE DIVISION,
MEDICAL WORKS, CHEPAUK CHENNAI - 5.



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16 THE ASSISTANT EXECUTIVE ENGINEER
PWD (BUILDINGS)
MAINTENANCE SUB DIVISION - III
MEDICAL WORKS, EGMORE CHENNAI - 8.

17 THE CHIEF ENGINEER (GENERAL)
WRO / PWD & ENGINEER IN CHIEF
CHEPAUK, CHENNAI - 5.

18 THE EXECUTIVE ENGINEER (WRO)
PWD, KOTTAR DIVISION,
NAGERCOIL, KANYAKUMARI DISTRICT.

19 THE DISTRICT COLLECTOR,
THIRUVANNAMALAI DISTRICT @
THIRUVANNAMALAI.

20 THE CHIEF ENGINEER (GENERAL)
& ENGINEER IN CHIEF, PWD,
CHEPAUK, CHENNAI - 5.

21 THE EXECUTIVE ENGINEER (WRO)
UPPER PAALAR BASIN DIVISION
VELLORE - 6.

+5ccs to M/s.V.Rengarajan, Advocate, S.R.No.28026,27589
+1cc to Mr.S.Thankasivam, Advocate, S.R.No.27833
+3ccs to Mr.P.Chandrasekaran, Advocate, S.R.No.27906
+1cc to the Government Pleader, S.R.No.28017

W.P.No.29346 of 2014

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NSK/18/05/2022