

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2017

CORAM

THE HONOURABLE MR. JUSTICE **V.PARTHIBAN**

W.P.No.11008 of 2013

and

M.P.No.1 of 2013

C.S.Suresh Babu

..

Petitioner

Vs.

1.The Chairman,
Tamil Nadu Slum Clearance Board,
No.5, Kamaraj Salai, Triplicane,
Chennai - 5.

2.The Secretary,
Tamil Nadu Slum Clearance Board,
No.5, Kamaraj Salai, Triplicane,
Chennai - 5.

..

Respondents

Petition filed under Article 226 of The Constitution of India
praying for the issuance of a writ of mandamus directing the second
respondent to regularise the service of the petitioner as driver.

WEB COPY

For Petitioner .. Mr.M.L.Ramesh

For Respondents .. Ms.D.Latha

ORDER

The petitioner has approached this Court seeking the following prayer:

"to direct the second respondent to regularise the service of the petitioner as driver"

2.The case of the petitioner is that he was appointed as driver on 07.08.2003 on a daily wage basis at the rate of Rs.117/- per day. On 31.11.2006, he was brought on to consolidated monthly salary. The petitioner, who was appointed in 2003 has been continued in service without any break till date. Though he has been continued for nearly 14 years, the petitioner has been denied of the service benefits that are admissible to regular employees employed by the respondents.

3.In the above circumstances, the petitioner initially had represented, seeking for permanent absorption in 2007. Since no reply is forthcoming, he has renewed his representation on 23.11.2009 and on 17.03.2010. However, without considering the same, the respondents appear to have insisted that unless the name of the petitioner is sponsored by the local employment exchange, his services cannot be regularised.

4. When the matter was taken up for final hearing today, a copy of the Recruitment Rules is circulated. As far as the post of driver is concerned, the method of appointment is by direct recruitment. Learned counsel appearing for the petitioner would submit that nowhere it is stipulated that a candidate should be sponsored by the employment exchange for being considered for regular appointment.

5. Be that as it may, it ought to be considered that the respondents, having extracted the work of a driver from the petitioner for close to 14 years since 2003, today, cannot turn around and insist on the petitioner for being sponsored by the employment exchange, even if a stipulation existed. However, no such stipulation either in the recruitment rules or otherwise has been pointed out by the respondents to that effect.

6. Upon notice, Ms.D.Latha, learned counsel entered appearance on behalf of the respondents and reiterated the submissions that the services of the petitioner cannot be regularised without following the due process of law.

7. After having considered the rival submissions of the counsels and having perused the materials and the pleadings, this Court is of firm view that the petitioner, who has been employed all along for nearly 14 years, cannot be kept on adhoc or temporary basis for indefinite period of time. The very fact that the petitioner has been employed continuously as many years orders would unequivocally demonstrate that there is a need of driver in the respondents/Tamil Nadu Slum Clearance Board and as such the services of the petitioner can be very well regularised on a regular and permanent basis to ensure that the petitioner is not deprived of the due service benefits that are available to the regular employees of the Board. In any event, the equity demands that the respondents who have extracted uninterrupted service from the petitioner since 2003 to till date cannot be allowed to take any technical objection for making the petitioner permanent and regularising his services. According to the learned counsel for the petitioner, the petitioner is otherwise fully qualified for being considered for regularisation.

WEB COPY

8. In the upshot of the discussions and the narrative as set out above, this Court has no hesitation to issue a direction to the respondents to regularise the services of the petitioner from the date

of his initial appointment in 2003 with consequential and attendant benefits. The said exercise shall be initiated and completed by the respondents within a period of three months from the date of receipt of a copy of this order.

9.The writ petition is allowed on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

13.07.2017

Index:Yes/No
mmi

Note: Issue copy of the order on 19.07.2017

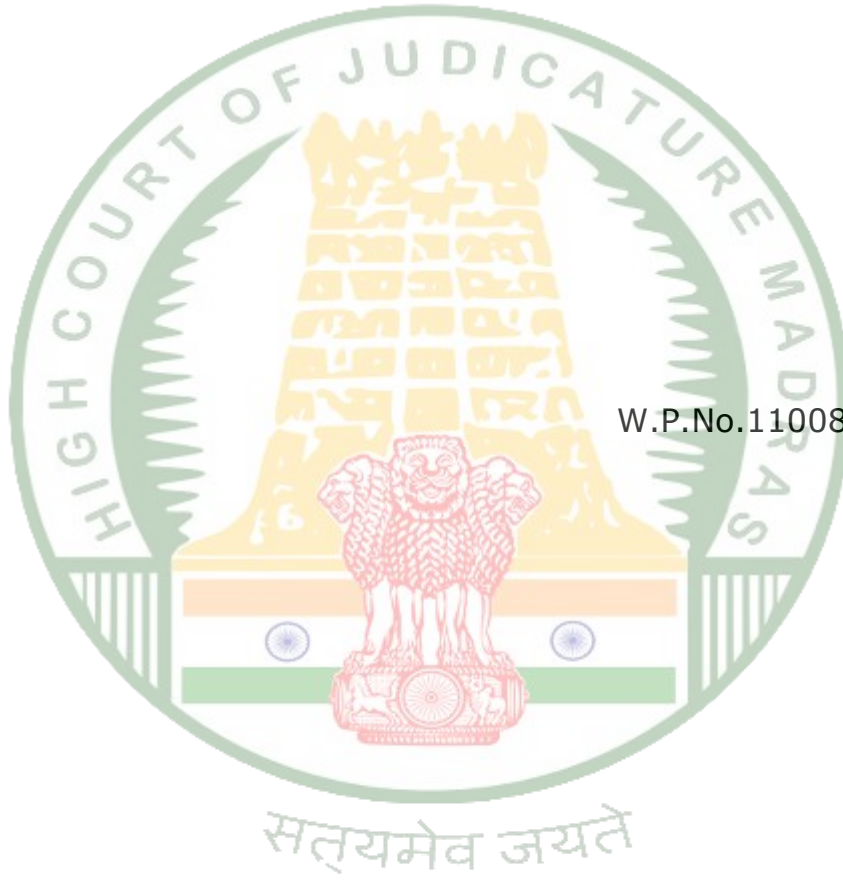
To

1.The Chairman,
Tamil Nadu Slum Clearance Board,
No.5, Kamaraj Salai, Triplicane,
Chennai - 5.

2.The Secretary,
Tamil Nadu Slum Clearance Board,
No.5, Kamaraj Salai, Triplicane,
Chennai - 5.

V.PARTHIBAN, J.

mmi



W.P.No.11008 of 2013

WEB COPY

13.07.2017