

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 15.6.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

Writ Appeal Nos.457 of 2016, 1749 of 2014 & 839 of 2015

The State of Tamil Nadu
rep. by its Secretary to Government
Public Works Department
Fort St. George
Chennai 600 009.

Appellant in
WA No.457/16

The Chief Engineer
Chennai Zone
Public Works Department
Water Resources Organisation
Chepauk
Chennai 600 005.

The Executive Engineer
Pennaiyar Basin Circle
Public Works Department
Water Resources Organisation
Thiruvannamalai.

The Assistant Executive Engineer
Sathanur Dam Sub Division
Public Works Department
Water Resources Organisation
Sathanur Dam.

Appellants in
WA Nos.839/15 &
1749/14

Vs.

R.Viswanathan
R.Muthumanickam
S.Velankanni
N.R.Balasubramani
R.Ravi
S.G.Sekar

S.Ganesh
S.Palanivel Senthilkumar
K.Palanisamy

Respondents in
WA No.457/16

R.Sakthivel
K.Thanikachalam
D.Ramasamy (Deceased)

सत्यमेव जयते
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M.Arumugam
M.Govindammal
S.Alamelu
P.Shanthi
T.M.Soundararajan
A.Alamelu
V.Vijaya

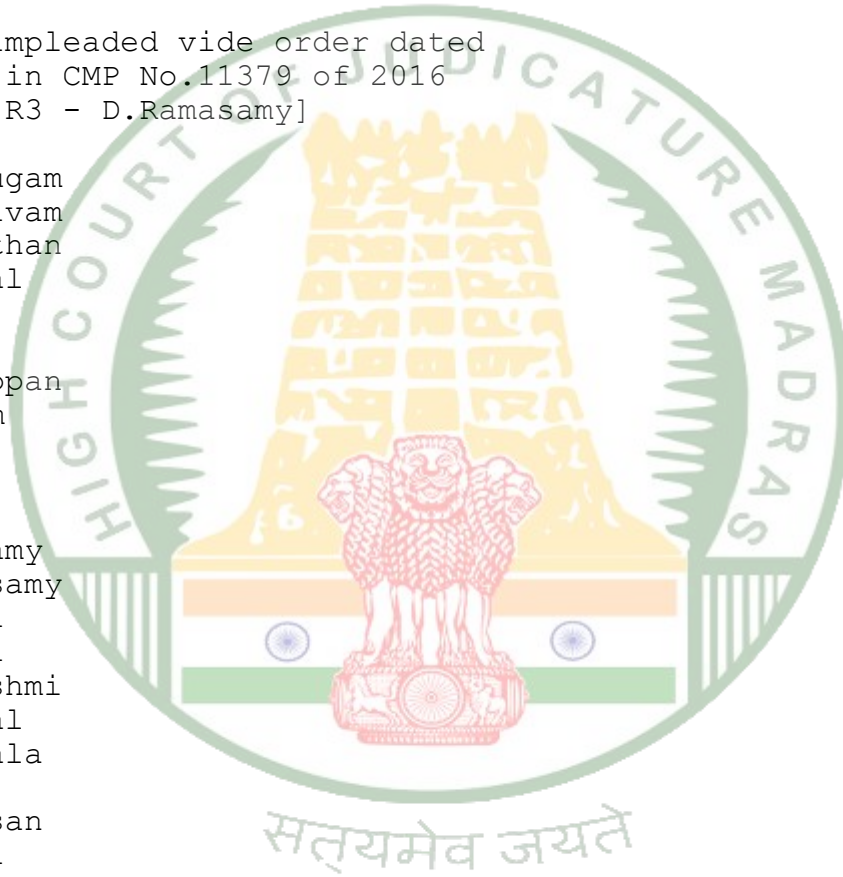
Respondents 1-10
.. in WA No.839/15

Kunthiammal
Palani
C.Selvi
Maniyalagan

Respondents 11-14
.. in WA No.839/15

[R11-R14 impleaded vide order dated
15.6.2017 in CMP No.11379 of 2016
as LRs of R3 - D.Ramasamy]

K.P.Shanmugam
P.Paramasivam
D.Ranganathan
K.Neelambal
D.Saroja
G.Rani
G.Pachaiappan
P.Arumugam
C.Anthony
P.Mallika
A.Devaki
A.Lourdusamy
G.Govindasamy
G.Panchali
V.Rajamani
N.Jayalakshmi
K.Mariammal
C.Sakunthala
V.Ayyanar
S.Srinivasan
G.Rajamani
P.Nehru
M.Muthu
K.Chinnasamy
V.Palani
A.Sevi
K.Chinnaraji
V.Krishnan
T.Devarajan
K.Marimuthu
K.Elumalai
L.Dhanakoti
K.Muniyan
S.Mani



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M.Kannan
V.Ramu

Respondents in
.. WA No.1749/14

Appeals under Clause 15 of the Letters Patent filed against the orders dated 22.7.2015, 17.9.2013 and 10.6.2013 made in W.P.No.12707 of 2012, W.P.No.25739 of 2013 and W.P.No.13833 of 2013 respectively.

WP.No.12707/2012:Writ Petition filed under Art 226 of the Constitution of India praying for the issuance of a Writ of Mandamus Calling for the records relating to the order in GO.(D) No.402 Public Works (C2) Dept. dt. 25.07.2007 on the file of Respondent quash the same in so far as the order of regularization will take effect only from the date of the order passed by the Government viz. 25.07.2007 and also not provided suitable posts as per their qualification and the consequential order in Letter No.21609/C2/2008-20 dated 09.01.2012 on the file of the Respondent quash the same and direct the Respondent to regularize the services of the Petitioners with effect from the date of completion of 10 years of their service and to place the Petitioners in the suitable posts according to this educational qualifications with all benefits as in the case of 1) GO.(Ms).No. 334 dt. 19.10.2007 (2)G.O(D) 209 dated 04.06.2009 3) G.O.(MS) No.117 dated 15.04.2010 4) G.O.MS.No.134 dated 07.05.2010 5) G.O (MS)/No 286 dated 06.10.2010 6) G.O(MS) 351 dated 05.08.2010 7) G.O.(MS) No.73 dated 01.04.2011 and 8) G.O (MS)No.119 dated 29.06.2011 Public Works Department.

W.P.No.13833/13:

Writ Petition filed under Art 226 of the Consitution of India praying for issuance of Writ of Mandamus to direct the respondent to regularise the service of the petitioners and to give monetary and retrospective effect to the petitioners from the date of completion of 10 years of service.

W.P.No.25739/13:Writ Petition filed under Art 226 of the Constitution of India praying for the issuance of Writ of Mandamus directing the respondent to regularise the service of the petitioners and to give monetary and retrospective effect to the petitioners from the date of completion of 10 years of service.

For Appellants : Mr.K.Venkataramani
in all WAs. Addl. Advocate General
Assisted by
Mrs.A.Srijayanthi
Spl. Govt. Pleader

WA No.457/16
For Respondents : Mr.L.Chandrakumar
1 to 5 & 7 to 9 For Mr.S.Doraisamy
For Respondent-6 : Not Ready

WA No.839/15
For Respondents 1, : Mr.L.Chandrakumar
4 to 7, 9 & 10 For M/s. Law Square
For Respondents 2 & 3 : No appearance

WA No.1749/14
For Respondents 1 to 3 : No appearance
For Respondents 4 to 36: Mr.L.Chandrakumar
For M/s. Law Square

J U D G M E N T
(Delivered by Huluvadi G.Ramesh,J)

These writ appeals are directed against the orders dated 22.7.2015, 17.9.2013 and 10.6.2013 made in W.P.No.12707 of 2012, W.P.No.25739 of 2013 and W.P.No.13833 of 2013 respectively.

2. Heard Mr.K.Venkataramani, learned Additional Advocate General appearing for the appellants and Mr.L.Chandrakumar, learned counsel appearing for the respondents.

3. The respondents were employed on daily wages as NMRs in various Divisions of Public Works Department. The Government passed an order regularising the services of daily wage employees who have rendered ten years of service as on 01.01.2006. However, the said benefits were not extended to some of the respondents. Therefore, they filed a writ petition before the Madurai Bench and obtained an order, consequent to which, their services were regularised from the date of the Government Order and not from the date of completion of ten years of service. Aggrieved by the same, the respondents filed writ petitions. The learned single Judge, relying upon the judgment of a Division Bench of this Court in A.Baby Sabeena v. State of Tamil Nadu [(2014) 6 MLJ 210], allowed the writ petitions, directing the appellant Government to notionally fix the pay of

the respondents with effect from the date of completion of ten years of service, with monetary benefits from the date of the Government Order. Assailing the said order, the Government has come up with the above appeals.

4. The only issue is whether the respondents are entitled to the benefit of regularisation from the date of completion of ten years of service or from the date of the Government Order.

5. In this regard, it would be pertinent to note that in *A.Baby Sabeena v. State of Tamil Nadu* [(2014) 6 MLJ 210], the Division Bench of this Court, holding that notional fixation of pay retrospectively without monetary benefit would not affect the Government in any manner, especially when such benefit was extended to more than 600 similarly placed persons, directed the Government to fix the pay notionally from the date of completion of ten years of services as NMRs, with monetary benefits from the date of the Government Order. When the said order has been challenged by the Government by way of Special Leave Petition in SLA(C) Nos.9122 to 9123 of 2016, the Apex Court, by order dated 29.6.2016, dismissed the Special Leave Petition and confirmed the order of the Division Bench.

"6. In view of the above factual position, we are of the considered view that the respondents are entitled to be regularised on completion of ten years of service and for notional fixation of pay from the date of regularisation of their service till the date of Government Order and that they are entitled to monetary benefits from the date of the Government Order. Accordingly, the appellants are directed to regularise the services of the respondents on completion of ten years of service and to notionally fix the pay of the respondents from the date of regularisation of their service till the date of Government Order and to grant monetary benefits from the date of the Government Order, by which the services of the respondents were regularised, within a period of three months from the date of receipt of a copy of this order."

7. The writ appeals are disposed of accordingly. There shall be no order as to costs. Consequently, CMP Nos.6446 of 2016 in W.A.No.456 of 2016, M.P.No.1 of 2014 in W.A.No.1749 of 2014 and M.P.No.1 of 2015 in W.A.No.839 of 2015 are closed.

Sd/-
Asst.Registrar (CO)
Dated: 23.06.2017

***Amended order as per order of
this court dated 20.07.2017
in W.A. Nos 457/16,1749/14 & 839/15
sd/- Assistant Registrar(CCC)
Dated: 25.07.2017**

/true copy/

Sub Asst. Registrar

kpl
To

The State of Tamil Nadu
rep. by its Secretary to Government
Public Works Department
Fort St. George
Chennai 600 009.

To be Substituted
to the order already
despatched on
27.06.2017

The Chief Engineer
Chennai Zone
Public Works Department
Water Resources Organisation
Chepauk
Chennai 600 005.

The Executive Engineer
Pennaiyar Basin Circle
Public Works Department
Water Resources Organisation
Thiruvannamalai.

The Assistant Executive Engineer
Sathanur Dam Sub Division
Public Works Department
Water Resources Organisation
Sathanur Dam.

+2 cc to M/s.Law Square sr 51304,51305
+1 cc to Government Pleader sr 42773
+1 cc to M/s.S.Doraisamy Advocate sr 51098

W.A.Nos.457 of 2016, 1749
of 2014 & 839 of 2015

aa23/06/2017
SP(26/07/2017)



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