

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2017

CORAM

THE HON'BLE Mr. JUSTICE V.PARTHIBAN

W.P.Nos.19456 to 19458 of 2013
and
M.P.Nos.1,1and 1 of 2013

V.Madhu ... Petitioner in 19456 of 2013
V.Mahendran ... Petitioner in 19457 of 2013
M.Rajeshkumar ... Petitioner in 19458 of 2013

Vs.

- 1.The Government of Tamil Nadu
Rep.by the Principal Secretary to Govt.
Environment and Forest Department,
Fort.St.George, Chennai 600 009.
- 2.The Principal Chief Conservator of Forests,
Forest Department,
Panagal Building,
1, Geenis Road,
Saidapet, Chennai 15.
- 3.The District Forest Officer,
Dharmapuri Forest Division,
Dharmapuri-5.
Dharmapuri District. Respondents in all W.Ps

Prayer in W.P.Nos.19456 & 19457 of 2013 : Petitions filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent order made in Lr.15393/Forest-2/2012-9 dated 09.05.2013 and quash the same, consequently directing the respondents to regularize the petitioner service as Driver in the regular post from the date of intial appointment i.e., 27.07.1998, with all consequential service and monetary benefits.

Prayer in W.P.No.19458 of 2013 : Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus to direct the respondents to regularize petitioner's service as Driver in the regular post from the date of initial appointment i.e., 04.11.1998, with all consequential service and monetary benefits.

For Petitioners: Mr.M.R.Jothimanian

For Respondents: Mr.M.Santhanaraman
Additional Government Pleader

C O M M O N O R D E R

Heard Mr.M.R.Jothimanian, learned counsel appearing for the petitioners and Mr.M.Santhanaraman, learned Additional Government Pleader appearing for the respondents.

2.The petitioners have approached this Court for seeking the following reliefs,

"To issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent order made in Lr.15393/Forest-2/2012-9 dated 09.05.2013 and quash the same, consequently directing the respondents to regularize the petitioners service as Driver in the regular post from the date of intial appointment i.e., 27.07.1998, with all consequential service and monetary benefits.

To issue a Writ of Mandamus to direct the respondents to regularize petitioner's service as Driver in the regular post from the date of initial appointment i.e., 04.11.1998, with all consequential service and monetary benefits."

3. The case of the petitioners is as follows:

The petitioners were appointed as Driver on 27.07.1998 and 04.11.1998, in Dharmapuri Forest Division. According to the petitioners, they were appointed through Employment Exchange and they have been working continuously as Driver from the date of initial appointment till the date of filing the writ petitions and also till today.

4. It appears that the petitioners have approached this Court earlier and obtained certain directions to dispose of the representations for regularising their services but unfortunately, the claim of the petitioners was rejected by the second respondent on 07.10.2008. In the writ petition Numbers 19456 and 19457 of 2013, the first respondent passed an order on 09.05.2013, rejected the claim for regularisation on the ground that they have not completed 10 years of service as per the G.O.Ms.No.22 of P & A R Department dated 01.01.2006. The other writ petitioner case (W.P.No.19458 of 2013) has not been rejected but has approached this Court seeking issue of Writ of Mandamus for regularisation of his service.

5. The sum and substance of the writ petitions is that the rejection of the request for regularisation as per G.O.Ms.No.22 of P & A R Department, dated 01.01.2006, is invalid and cannot be countenanced in law. According to the learned counsel appearing for the petitioners, one of the Drivers, Viz., S.Murugan, whose claim was also rejected under the same impugned order dated 09.05.2013, has approached this Court in W.P.(MD) No.11106 of 2013, wherein, this Court by order dated 01.12.2016, allowed the writ petition by quashing the same impugned order, insofar as the petitioner is

concerned, held that the petitioner therein is entitled to regularisation from the date of initial appointment on completion of ten years of service on that date.

6. Upon notice, learned Additional Government Pleader entered appearance and submitted that the petitioners herein are not entitled to regularisation since they had not completed ten years of service as on 01.01.2006, in terms of G.O.Ms.No.22 of P & A R Department, dated 01.01.2006.

7. At this, the learned counsel appearing for the petitioners would submit that the said objection was also raised in respect of the other driver who was approached this Court earlier in W.P. (MD) No.11106 of 2013 and

this Court in the said order dated 01.12.2016, had repulsed and over ruled such argument stating that the petitioner therein was entitled to regularisation on completion of ten years of service from the date of his initial appointment. The learned counsel for the petitioner would further submit the order passed by the learned Single Judge was confirmed in W.A. (MD) No.686 of 2017, vide order dated 12.07.2017.

8. Since the petitions herein are squarely covered by the order passed by this Court as aforesaid, this Court cannot take a different view in the matter. Moreover, the objection raised by the learned counsel appearing for the respondents was considered and over ruled and therefore, the similar objection which is raised by the learned counsel for the respondents cannot not be entertained as being valid and substantive.

9. In view of the above submissions, this Court has no hesitation in allowing these writ petitions and the impugned order passed by the first respondent dated 09.05.2013, insofar as the two petitioners are concerned, are set aside and all the petitioners are directed to be regularised from the date of completion of ten years from the date of initial appointment with all attendant and consequential benefits. The direction shall be complied with by the first respondent within a period of two months from the date of receipt of a copy of this order.

10. With the above direction, the writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Government of Tamil Nadu
Rep.by the Principal Secretary to Govt.
Environment and Forest Department,
Fort.St.George, Chennai 600 009.

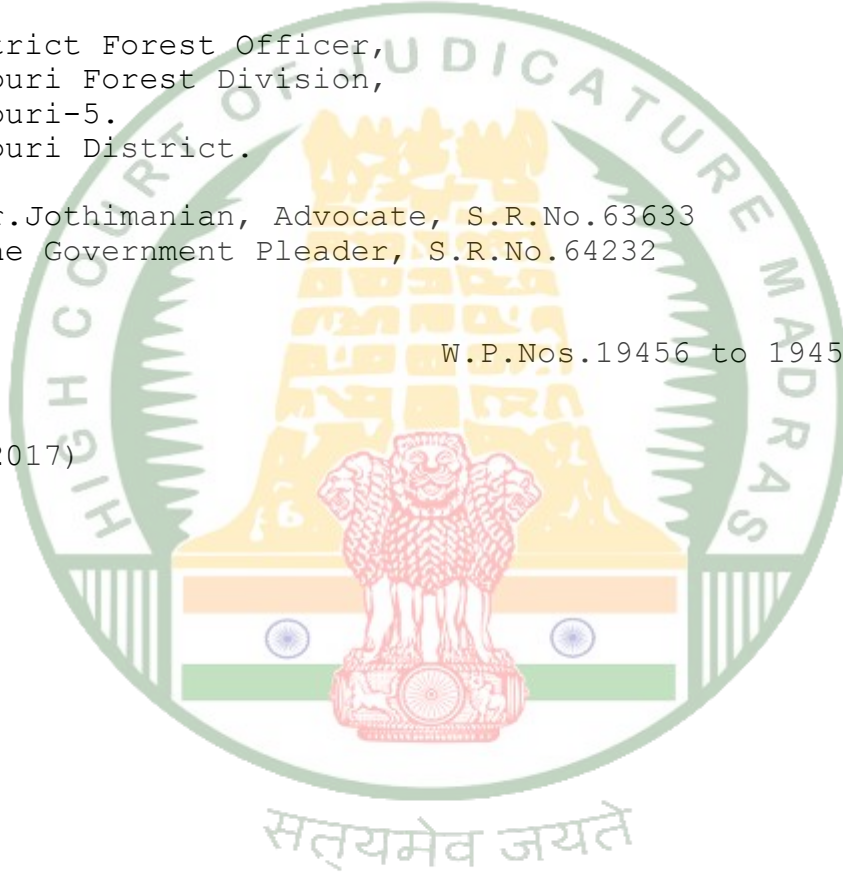
2.The Principal Chief Conservator of Forests,
Forest Department,
Panagal Building,
1, Geenis Road,
Saidapet, Chennai 15.

3.The District Forest Officer,
Dharmapuri Forest Division,
Dharmapuri-5.
Dharmapuri District.

+3cc to Mr.Jothimanian, Advocate, S.R.No.63633
+1cc to the Government Pleader, S.R.No.64232

W.P.Nos.19456 to 19458 of 2013

GN(05/10/2017)



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