



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.02.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBBIAH**
AND
THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

W.A.[MD].No.1095 of 2015
and
M.P.(MD)No.1 of 2015

1.The Secretary to Government,
Public Works Department,
Fort St. George,
Chennai-9.

2.The Engineer -in- Chief (General),
Public Works Department,
Chepauk, Chennai-5.

3.The Executive Engineer,
Gundaru Basin Division,
Water Resource Organization,
Public Works Department,
Tallakulam,
Madurai-2.

: Appellants/Respondents

Vs.

P.Koothan

: Respondent/Writ Petition

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order of a learned Single Judge of this Court dated 07.07.2011, made in W.P.(MD).No.4029 of 2009.

Prayer in WP(MD). 4029/ 2009 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus, directing the 1st Respondent to regularize the service of the petitioner in the post of work Inspector Grade-II with effect from 1.1.1986 and consequently direct the respondents to sanction all the attendant and monetary benefits thereof



For Appellants

: Mr.S.Chandrasekar,
Government Advocate

For Respondent

: Mr.V.Thirumal

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JUDGMENT

[Judgment of the Court was delivered by R.SUBBIAH, J.]

This Writ Appeal is directed as against the order of this Court dated 07.07.2011, made in W.P.(MD).No.4029 of 2009.

2. By order dated 07.07.2011 in W.P.(MD).No.4029 of 2009, the learned Single Judge allowed the Writ Petition filed by the respondent herein, and directed the appellants to regularize the services of the respondent in the post of Work Inspector, Grade-II, with effect from 01.01.1986 and also sanction all the attendant and monetary benefits thereof.

3. The case of the respondent before the learned Single Judge was that he was appointed as NMR in the Office of the Periyar Improvement Circle, Madurai, in the post of Mazdoor, Grade-I, on 14.06.1975 and thereafter, promoted to the post of Head Mazdoor. Periyar Improvement Circle Division was bifurcated and a new division called Gundaru Basin Sub-Division was created. As he had completed more than 10 years as NMR in the year 1985, the Engineer-in-Chief (General), Public Works Department, Chempauk, Chennai-5 and the Executive Engineer, Gundaru Basin Division, Water Resource Organization, Public Works Department, Tallakulam, Madurai-2, the second and third appellants herein sent proposals to the Government for regularization.

4. The respondent has further stated that he worked in the post of Works Inspector, Grade-II, between 26.02.1985 and 14.03.1990 for more than five years and at that time, he had completed 10th standard (old pattern). It is his grievance that when the Government have issued orders in G.O.Ms.No.193, Public Works (C2) Department, dated 25.01.1990, though he is eligible, instead of regularising his services as Work Inspector, Grade II, he was brought into regular establishment, with effect from 01.01.1986 in the post of Head Mazdoor, which is inferior to the post of Work Inspector Grade-II. Hence, the respondent approached the third appellant in person and requested him to regularize his service in the post of Work Inspector Grade-II, as done in the case of Tvl.O.Pandian and K.Palani, who were juniors to the respondent, regularized in the post of Work Inspector, Grade II and they do not possess the required educational qualification, 10th standard (old pattern) and even then, orders were issued regularizing them in the post of Work Inspector, Grade-II.



5. It is the further case of the respondent that the services of Thiru.K.Raja, Thiru.S.Solai, Thiru.M.Karuppaiah, Thiru.M.Subramanian and Thiru.K.Vanavan, were regularized as Work Inspector, Grade-II, by relaxing the relevant rules for appointment and the Government have issued orders in G.O.Ms.No.788, Public Works (C2) Department, dated 01.02.1992, regularizing them as Work Inspector, Grade-II. Furthermore, pursuant to the order passed by this Court in W.P.No.27265 of 2005 filed by one A.Subramanian, Head Mazdoor, working in the Madurai Region, the Government have issued orders in G.O.Ms.No.297, Public Works (C2) Department, dated 14.09.2007, regularizing his services as Work Inspector, Grade-II. Citing the above said precedents, the respondent made a representation, dated 27.08.2008, to the appellants to regularize him in the post of Works Inspector, Grade-II, with effect from 01.01.1986. As the said representation has not been responded, he has filed the Writ Petition.

6. The learned Single Judge, by relying upon the order made in W.P.(MD)No.7197 of 2008, dated 27.01.2011, filed by one Mr.R.Soundararajan, has allowed the Writ Petition holding that the Government have issued orders regularizing the services of other persons similar to that of the respondent herein. Aggrieved over the same, the present Writ Appeal has been filed.

7. We have heard the submissions made by the learned Government Advocate appearing for the appellants and the learned counsel appearing for the respondent and perused the materials available on record.

8. In our considered view, when similarly placed persons were granted the relief of regularization in the post of Work Inspector, Grade-II, the respondent, who is similarly situated like that of others, is also entitled to the same benefits. Therefore, as observed by the learned Single Judge, denial of the benefits of regularization to the respondent in the post of Work Inspector, Grade II with effect from 01.01.1986 would certainly amount to violation of Article 14 of the Constitution of India. Therefore, we do not find any infirmity in the order passed by the learned Single Judge, directing the appellants to regularize the service of the respondent in the post of Work Inspector Grade - II with effect from 01.01.1986 and also sanction all the attendant and monetary benefits thereof. Therefore, the Writ Appeal is liable to be dismissed and accordingly, dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

9. At this juncture, the learned counsel for the respondent submitted that the respondent has attained the age of superannuation on 30.04.2012. Since the respondent has reached the age of superannuation, the appellants are directed to regularize the services of the respondent in the post of Work Inspector,



Grade-II notionally and also sanction all the attendant and monetary benefits, which he is legally entitled to, within a period of six weeks from the date of receipt of a copy of this judgment.

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Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Public Works Department,
Fort St. George,
Chennai-9.
- 2.The Engineer -in- Chief (General),
Public Works Department,
Chepauk, Chennai-5.
- 3.The Executive Engineer,
Gundaru Basin Division,
Water Resource Organization,
Public Works Department,
Tallakulam,
Madurai-2.

+1 cc to MR.V.THIRUMAL, Advocate SR.No.8712
+1 cc to Special Government Pleader SR.No.8936

JUDGMENT MADE IN
W.A. (MD) No.1095 of 2015
Dated: 16.02.2017

SMA/RSK/SAR-2/24.02.2017:4P/6C