



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2017

CORAM:

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THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

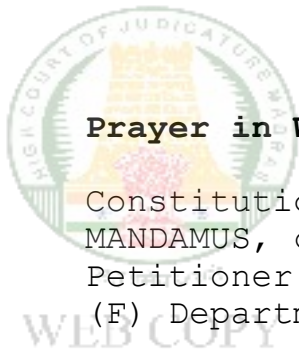
W.A(MD)Nos.884 and 885 of 2015

A.Vashni Jeganesh ... Appellant in W.A.(MD) No.884/2015
T.Ravichandran ... Appellant in W.A.(MD) No.885/2015

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary,
Public Works Department,
Fort St.George, Chennai - 600 009.
 2. The Engineer in Chief (WRO) and
Chief Engineer,
(General), Public Works Department,
Chepauk, Chennai - 600 005.
 3. The Chief Engineer,
Water Resources Organization (PWD),
Madurai Region,
Madurai - 625 002.
 4. The Superintendant Engineer,
Thamiraparani Basin Circle,
(PWD / WRO) Tirunelveli - 627 002.
 5. The Executive Engineer,
Water Resources Organization(PWD),
Kodayar Basin Division,
Nagercoil - 629 001,
Kanyakumari District.
 6. The Assistant Executive Engineer,
(WRO / PWD) Pazhayar Basin Sub Division,
Nagercoil - 629 001,
Kanyakumari District.
- ... Respondents in both W.As.,

COMMON PRAYER : These Writ Appeals are filed under Clause 15 of Letters Patent to set aside the order passed in W.P.(MD) No.6776 of 2011 & 6785 of 2011 dated 05.02.2015 on the file of this Court.



Prayer in WP(MD). 6776/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF MANDAMUS, directing the Respondents to regularize the service of the Petitioner as per G.O.(Ms).22 Personal and Administrative Reforms (F) Department dated 28-02-2006 or other Government Order.

Prayer in WP(MD). 6785/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to regularize the service of the petitioner as per G.O.(Ms.) No.134, Public Works Department dated 07.05.2010 or other Government order.

For Appellant : Mr.M.Dennis Joe
in both W.As.,

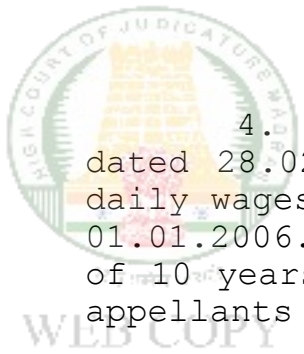
For Respondents : Mr.T.S.Md. Mohideen
in both W.As., Additional Government Pleader.

COMMON JUDGMENT

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

These writ appeals have been filed by the unsuccessful writ petitioners who are aggrieved by the common order dated 05.02.2015 dismissing WP(MD)Nos.6776 and 6785 of 2011.

2.The writ petitioners claimed the benefit of regularisation of their services as per G.O.M.S.No.22, Personal and Administrative Reforms (F) Department, dated 28.02.2006. According to them, they have been working as Mazdoor Grade-I under NMR basis in Pazhayar Basin Sub Division, Nagercoil. The respondents filed counter affidavits denying the claim made by the writ petitioners. According to them, the writ petitioner Vashni Jeganesh was employed previously in each year from 01.12.1992 to 31.12.1996 by the Assistant Executive Engineer, Nagercoil Sub Division, Nagercoil. He had been regularly engaged by the Authority on daily wages from 01.01.1997 to 31.03.2005. Thereafter, the writ petitioner was getting daily wages only from the contractor engaged with the Department and not from the Department. The tabular column setting out the days on which the writ petitioners were engaged have been set out in the counter affidavit. A mere look at the said tabular column would show that it is not a case of continuous engagement on daily wages basis for a period of 10 years. Therefore, the learned Judge declined to entertain the claim of the writ petitioners and dismissed the writ petitions.



4. The appellants can claim the benefit of G.O.Ms.No.22, dated 28.02.2006, only if they can show that they were working on daily wages basis and had completed more than 10 years service as on 01.01.2006. They can claim regularisation only if this requirement of 10 years of service is fulfilled. It is beyond doubt that the appellants do not fulfil the said criteria.

5. It is true that they have been engaged by the Department on and off. It is not a case of completion of 10 years of service as on 01.01.2016. Inasmuch as the condition precedent set out in G.O.M.S.No.22, dated 28.02.2006 is not fulfilled, the appellants are not entitled to any relief. Even though the writ appeals are liable to be dismissed, this Court expresses the hope that the appellants would continue to be engaged on the same daily wages basis as they are presently employed. Merely because, these writ appeals are dismissed that would not afford a ground for ousting them.

6. With this observation, these writ appeals are dismissed. No costs.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To:

1. The Secretary,
State of Tamil Nadu,
Public Works Department,
Fort St.George, Chennai - 600 009.
2. The Engineer in Chief (WRO) and
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(General), Public Works Department,
Chepauk, Chennai - 600 005.
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Kanyakumari District.



6. The Assistant Executive Engineer,
(WRO / PWD) Pazhayar Basin Sub Division,
Nagercoil - 629 001,
Kanyakumari District.

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+ 2 CC TO M/s.D.DENNIS JOE, ADVOCATE IN SR Now. 71613 & 71612
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 71697 & 71676

SKM

TE/SV-MMS/SAR-I : 07/09/2017 : 4P/10C

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