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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 12th July 2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.MD.No.686 of 2017

and

C.M.P. (MD) .No.5376 of 2017

1. The Government of Tamil Nadu,
Represented by its Secretary to Government,
Environment & Forest Department,
Fort.St.George, Chennai - 600 009.
2. The Principal Chief Conservator of Forests,
Pangal Building, Chennai - 600 015.
3. The District Forest Officer,
Ramanathapuram District,
Ramanathapuram.
4. The Forest Range Officer,
Ramanathapuram @ Thangachimadam,
Ramanathapuram District. ... Appellants/Respondents

Vs.

S.Murugan ... Respondent/Writ Petitioner

PRAYER : Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 01 December 2016 in W.P.(MD).No.11106 of 2013 and allow the Writ Appeal.

Prayer in WP(MD). 11106/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, call for the records of the 1st respondent in his proceedings in letter No. 15393/vanam - 2/2012-9 dated 09.05.2013 and Quash and consequently direct the respondents to regularize the services of the petitioner as DRIVER from the date of his initial appointment on 15.10.1997 with consequential service and monetary benefits and to absorb him in regular establishment.

For Appellants : Mr.T.S.Mohammed Mohideen

For Respondent : Mr.G.Thalai Mutharasu

**JUDGMENT**

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

The Government of Tamil Nadu is on appeal questioning the order dated 01 December 2016, made in W.P.(MD)No.11106 of 2013.

2.The writ petitioner joined the office of the Forest Range Officer, Ramanathapuram, at Thangatchimadam, on 15 October 1997, as a driver on daily wages. He has been working since then without any break. Even though, he has been working for more than 15 years, his services had not been regularized. The writ petitioner, pointed out that the Government of Tamil Nadu issued G.O.Ms.No.22, Personnel and Administrative Reforms Department, dated 28 February 2006 for regularizing the service of daily wages employees working in all Government Departments, who have completed 10 years of service as on 01 January 2006. Unfortunately, the writ petitioner had not completed 10 years on the said cut off date. He was short by one year. Hence, his request for regularisation was rejected by the Secretary to the Government, Environment and Forests Department, Government of Tamil Nadu, vide order dated 09 May 2013 in letter No.15393 of வனம்-2 / 2012-9. The learned Single Judge allowed the writ petition by setting aside the rejection order dated 09 May 2013 and directed the respondents to regularize his service from the date of completion of 10 years of service with all attendant benefits. Aggrieved by the same this writ appeal has been filed.

3.Even though the appellant is right in contending that as on 01 January 2006, the writ petitioner had not completed 10 years and therefore he cannot avail the benefit in terms of G.O.Ms.No.22, Personnel and Administrative Reforms Department, dated 28 February 2006, we are still not inclined to interfere with the order passed by the learned Single Judge. We note that in similar cases, the Government had granted relaxation and regularized such services. For instance in G.O.Ms.No.3, Environment and Forest Department, 2013, dated 10 January 2013, the services of as many as 14 persons who were working in the appellant department were regularized. In fact the said 14 persons had completed 10 years only as on 01 January 2011. It is not the case of the appellant that the writ petitioner had gained back door entry.

4.Admittedly, he had been in service right from 15 October 1997. There is no break in service. To deny the benefit of the regularization to an employee, who had completed 19 years as on date would not be just or equitable. Taking into account the special circumstances obtaining in this case, we do not wish to interfere with the order of regularization made in favour of the respondent herein.



5.Thus, the appeal is therefore dismissed. No costs.
Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

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/True Copy/

Sub Assistant Registrar

+1cc to Mr.G.Thalai Mutharasu, Advocate Sr.No.65088

DAS/KM/GSP

VB/KK/SAR2/28.07.2017/3P/2C

**W.A. [MD] .No.686 of 2017
and
C.M.P. (MD) .No.5376 of 2017
12.07.2017**