



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.07.2017**

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.(MD)No.906 of 2017

and

C.M.P(MD) No.6071 of 2017

1.The Principal Chief Conservator of Forests,
Panagal Buildings,
Saidapet,
Chennai.

2.Conservator of Forests,
Virudhunagar Circle, 187,
Malaipet Street,
Viruthunagar.

3.Divisional Forest Officer,
Social Forestry Division,
No.16, C.C.Salai Rajaji Nagar,
M.S.F Colony,
Viruthunagar.

..Appellants/Respondents

Vs.

S.Mahendrakumar

..Respondent

PRAYER: Writ Appeal is filed under clause 15 of Letter Patent Act, against the order passed by this Court, order dated 21.02.2017 in W.P.(MD)No.624 of 2017.

Prayer in WP(MD). 624/ 2017 :

Writ of Mandamus directing the respondents to appoint the petitioner directly from the forest department till the regularization of the service of the petitioner and to regularize his service.

For Appellants : Mr.T.S.Mohammed Mohideen
Additional Government Pleader

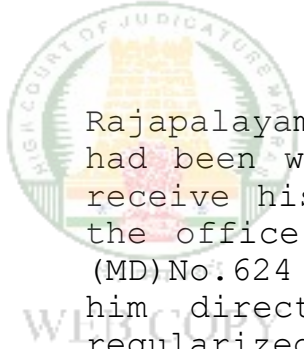
For Respondent : Mr.M.Viayarathinam

JUDGMENT

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

This Writ Appeal is directed against the order dated 21.02.2017 made in W.P.(MD).No.624 of 2017 filed by the respondent herein.

2. According to the Writ Petitioner, he was appointed as Jeep Driver on daily wages basis on 01.04.2006 in the Forest Range Office, Srivilliputhur, Virudhunagar District. He was transferred to



Rajapalayam, and later to Madurai Southern Division. Even though, he had been working in the office of the appellants, he was asked to receive his salary from 01.12.2016 from one Ganesan, contractor in the office of the Forest Department. He therefore, has filed W.P. (MD)No.624 of 2017 for directing the appellants herein to appoint him directly in the Forest Department till his services are regularized.

3. The appellants herein filed their counter affidavit opposing the said prayer. The learned Judge, however, directed regularization of the Writ Petitioner's services on the ground that he had completed 480 days of continuous service in the period of 24 English calendar months and that he is deemed to have affiliated permanent status. Aggrieved by the said order dated 21.02.2017 directing regularization of the service of the respondent herein, the present Writ Appeal has been filed.

4. Heard the learned Additional Government Pleader for the appellants and the learned counsel for the respondent.

5. The learned single Judge while allowing the Writ Petition has not indicated the legal basis for granting relief to the Writ Petitioner G.O.(Ms).No.22 Personnel and Administrative Reforms (F) Department dated 28.02.2006, which was a one time measure for granting relief to the daily wages employees is clearly not applicable to the present case. This is because the said G.O.(Ms).No.22 Personnel and Administrative Reforms (F) Department dated 28.02.2006 required that the employee should have completed ten years as on 01.01.2006. In the present case, the Writ Petitioner got appointed as daily wages employee only on 01.04.2006. Besides, the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act is also not applicable to the appellant department.

6. The learned Single Judge has observed that the Writ Petitioner having put in 480 days of continuous service in 24 calendar months is entitled to declaration of status of permanency. But Forest Department is not an industrial establishment. Therefore provisions of the said Act cannot be invoked. Hence, the order of the learned Single Judge, directing regularization of the Writ Petitioner, has to be necessarily interfered with. We therefore set aside the order dated on 21.02.2017 made in W.P.(MD)No.624 of 2017 and allow this Writ Appeal. But the matter cannot be end there.

7. The grievance of the Writ Petitioner is that he is all along receiving his wages only from the Forest Department but now he is asked to receive his wages from the contractor. This is not fair on the part of the appellants. When the Forest Department is having need of a driver, they can very well engage the writ petitioner. In other words, they can continue to engage the writ petitioner, as they have been engaging him for the last eleven years. As and when regular recruitment takes place for the post of Driver in the Forest



Department, the Writ Petitioner can certainly be permitted to participate. He can also be given due relaxation so that he can take part in the selection process. We direct that the services of the Writ Petitioner shall not be dispensed till then.

9. With the above direction, this Writ Appeal is allowed. No Costs. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar (Protocol)

/True Copy/

Sub Assistant Registrar

+1cc to Mrs.VIJAYARATHINAM Advocate in SR. NO.68266
+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No.68697
PSD/TA/MRN
JS/KK/SAR.1/9.8.2017/3P-3C

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and
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