



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.04.2017**

CORAM:

THE HONOURABLE MR.JUSTICE.**S.S.SUNDAR**

W.P.[MD].No.1012 of 2016

and

W.M.P. (MD) No.837 of 2016

M.Murugan

: Petitioner

Vs.

01.The State of Tamil Nadu,
rep. by its Secretary to Government,
Highways and Minor Ports Department,
Secretariat,
Chennai-600 009.

02.The Principal Director (Highways),
O/o. The Principal Director (Highways),
Highways Department,
Chepauk,
Chennai-600 005.

03.The Divisional Engineer,
Highways & Rural Works,
Highways Department,
Viruthunagar.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Declaration or any other appropriate Writ, to declare that the oral termination of the petitioner from service as N.M.R. Technical Assistant from the 3rd Respondent office by the 3rd Respondent is illegal and arbitrary and consequently directing the Respondents 1 to 3 herein to reinstate the petitioner into service without any hindrance thereby regularize the service in the post of Junior Draughting Officer or any other equivalent post in the Highways Department based on his educational qualification and past service rendered by him within the time limit that may be stipulated by this court.

For Petitioner : Mr.G.Thalaimutharasu for
Mr.D.Srinivasaraghvan

For Respondent : Mr.J.Gunaseelan Muthiah
Government Advocate



O R D E R

Heard Mr.G.Thalaimutharasu, learned counsel for the petitioner and Mr.J.Gunaseelan Muthiah, learned Government Advocate appearing for the respondents.

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2.The learned counsel for the petitioner though has made several factual contentions regarding the eligibility of the petitioner for regularisation of his services, seeks indulgence of this Court to pass similar order passed by this Court on 06.01.2016 in W.P.(MD)Nos.7919 to 7922 of 2012 for similarly placed persons.

3.In W.P.(MD)Nos.7919 to 7922 of 2012, this Court by order dated 06.01.2016 has observed as follows:

"9.It is an admitted case of the respondents in their counter affidavit that the artificial break was given by them alone to the petitioners and the petitioners cannot be blamed for that. Secondly, in an identical circumstance, this Court gave a direction in favour of similarly placed persons who have rendered more than three years of service for regularisation in W.P.No.36623 of 2004 dated 09.12.2005 (V.Kaliappan and others v. State of Tamil Nadu represented by its Secretary to Government, Highways Department and others).

10.In view of the above, although the petitioners have not satisfied the eligibility criteria of ten years service as on 01.01.2006 in the respondent department for consideration of their request for regularisation in terms of G.O.Ms.No.22 dated 28.02.2006, this Court is only inclined to observe that this order shall not preclude the respondents to consider the case of the petitioners for regularisation on the basis of any other Government Order, since they are presently overaged and had also served in the respondent department on dialy wages basis for quite a long time, though with break in service. With this observation, all the writ petitions are dispose off. Consequently, M.P.(MD) Nos. 2 of 2012 are closed. No costs."

4.The contention of the petitioner is that he is also similarly placed person like that of the petitioners in W.P.(MD) Nos.7919 to 7922 of 2012.

5.However, it is the contention of the respondents that the petitioner has only served for a period of three years and that the request of the petitioner cannot be considered in the light of the existing Government Orders as the petitioner is not entitled to the same.

6.The learned counsel for the petitioner, however, restricted his submissions to the effect that the respondents may be directed to consider the petitioner's case in the light of the judgment of this Court in W.P.(MD)Nos.7919 to 7922 of 2012 dated 06.01.2016.



7.The learned Government Advocate appearing for the respondents has no objection, if this Court pass an order without expressing any opinion on the merits of the petitioner's case.

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8.In view of the submissions made on either side, this Court is inclined to pass the following order:

The respondents 1 and 2 are directed to consider the case of the petitioner for regularisation in the light of the order dated 06.01.2016 in W.P.(MD)Nos.7919 to 7922 of 2012 and pass orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of copy of this order.

9.The Writ petition is disposed of accordingly. Consequently, connected, W.M.P.is closed.

Sd/-

Assistant Registrar(C)

/True Copy/

Sub-Assistant Registrar

To

01.The Secretary to Government,
Highways and Minor Ports Department,
Secretariat, Chennai-600 009.

02.The Principal Director (Highways),
O/o. The Principal Director (Highways),
Highways Department,
Chepauk, Chennai-600 005.

03.The Divisional Engineer,
Highways & Rural Works,
Highways Department,
Viruthunagar.

+1 CC TO MR.G.THALAIMUTHARASU,ADVOCATE,SR NO.50764

+1 CC TO SPECIAL GOVERNMENT PLEADER SR NO.50948

tsg/myr

MAS/SKN-RSK:18.04.2017:3P-6C

ORDER MADE IN
W.P. [MD].No.1012 of 2016
and
WMP (MD) No.837 of 201
05.04.2017