

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A.No.911 of 2017

and C.M.P.Nos.16970 and 16971 of 2017

1.Vediappan (deceased)

2.Maheswari

3.Vijaya

4.Sathish

... Appellants

(Appellants 2 to 4 brought on record as LRs of the deceased sole appellant vide order of Court dated 20.11.2017) by HGRJ & TKRJ made in CMP.No.16970, 16971/17 in WA.No.911/2017.

Vs

1.The Government of Tamil Nadu
Rep. by its Secretary to Government
Rural Development and Local Administration
Secretariat
Chennai 600 009.

2.The Director
Rural Development
Chepauk
Chennai 600 005.

3.The District Collector
Thiruvannamalai District.

4.The Commissioner
Peranamallur Panchayat Union
Peranamallur
Vandavasi Taluk
Thiruvannamalai District.

... Respondents

Prayer:- Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order passed by this Court in W.P.No.3019 of 2007 dated 15.03.2012.

WP.No.3019 of 2007 is preferred under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus to Call for the records pertaining to the order passed by the third respondent in his proceedings in Na.Ka.No.11548/2003/Pa.E.1 dated 29.12.2006 and quash the same

and to direct the respondents to continue the benefits from the date of the original regularization i.e. 11.10.1995.

For Appellants : Mr.S.Sathiaseelan
For Respondents: Mr.V.Anandhamurthy
Additional Government Pleader

JUDGMENT

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.)

The deceased appellant filed a writ petition in W.P.No.3019 of 2007 before the writ court challenging the proceedings of the third respondent dated 29 December, 2006. Another employee by name, Ellappan, also filed a Writ Petition in W.P.No.3005 of 2007 challenging the order dated 29 December, 2006 and for a direction to continue the selection grade salary which was paid as per the earlier order. The learned Single Judge by way of a common order, dismissed both the writ petitions. Feeling aggrieved, the unsuccessful writ petitioner has come up with this intra court appeal.

2. The documents available on record indicate that the appeal filed by the petitioner in W.P.No.3005 of 2007 was allowed by the Division Bench by judgment dated 03 April 2014 in W.A.No.763 of 2013.

3. We have directed the learned counsel for the appellants to place on record a comparative statement of the case of the deceased appellant and the appellant in W.A.No.763 of 2013. The comparison chart produced by the learned counsel indicates that the deceased appellant was similarly situated like the appellant in W.A.No.763 of 2013.

4. The deceased appellant was initially appointed as Night Watchman on 11 October, 1985. His services were regularised on 27 March, 2000 with effect from 11 October, 1995. The regularisation was on account of his ten years of continuous service. However, subsequently, by way of the Government Order in G.O.Ms.No.161, Rural Development Department dated 26 June, 2000, his services were regularised with effect from 26 June, 2000 without considering the factum of earlier regularisation on 27 March, 2000 giving retrospective effect from 11 October, 1985. Similarly, the regularisation order issued in favour of Ellappan was also cancelled and a new date of regularisation was indicated in the Government Order. The order dated 29 December, 2006 was quashed by the Division Bench in the appeal filed by the writ petitioner in W.P.No.3005 of 2007. The deceased appellant is similarly situated. The deceased appellant is therefore, entitled to the benefit of the judgment in W.A.No.763 of 2013. We are, therefore, of the view that the appeal

deserves to be allowed.

5. Accordingly, by following the judgment dated 03 April, 2014 in W.A.No.763 of 2013, the intra court appeal is allowed. The order impugned in the writ petition is quashed. No costs. Consequently, connected miscellaneous petitions are closed.

We are informed that the employee is no more. Since the legal representatives of the deceased employee are already on record, the respondents are directed to pay the retirement benefits due to the employee as per entitlement forthwith.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

gms

To

1.The Secretary to Government
The Government of Tamil Nadu
Rural Development and Local Administration
Secretariat
Chennai 600 009.

2.The Director
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Chepauk
Chennai 600 005.

3.The District Collector
Thiruvannamalai District.

4.The Commissioner
Peranamallur Panchayat Union
Peranamallur
Vandavasi Taluk
Thiruvannamalai District.

+1 cc to M/s.S.Sathiaseelan Advocate sr 12042

W.A.No.911 of 2017

mr(co)
aa14/03/2018