

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 27.2.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.A.No.217 of 2018

1. K.Kalyanasundaram
2. M.Sundara Raman
3. S.Perumal

Appellants

Versus

1. The State of Tamil Nadu,
rep. by its Secretary to Government,
Education Science & Technology Department,
Fort St. George, Chennai 600 009.
2. The Director of Elementary Education,
Chennai 600 006.
3. The Assistant Elementary Educational
Officer,
Thiruvarur A.T. Panneerselvam District
now Thiruvarur District.
4. The District Elementary Educational
Officer,
A.T.Paneerselvam District, now
Thiruvarur District.
5. The Secretary,
Government of Tamil Nadu,
Rural Development & Panchayat Department,
Fort St. George, Secretariat, Chennai.
6. The Commissioner cum Director,
Rural Development & Panchayat Union,
Panagal Building, Saidapet, Chennai 600 015.
7. The District Collector,
Thiruvarur District.
8. The Commissioner,
Panchayat Union Office,
Thiruthuraipoondi.Thiruvarur District.

9. The Commissioner,
Panchayat Union Office, Nannilam,
Thiruvavarur.

10. The Commissioner,
Panchayat Union Office, Koradacheri,
Thiruvavarur District.

Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 5.5.2017 passed in W.P.No.26624 of 2006 on the file of this court.

W.P.No.26624 of 2006:

Petition filed under Article 226 of the constitution of India came to be numbered on transfer of original Application No. 607/1997 from the file of the Tamil Nadu Administrative Tribunal Chennai praying to direct the respondents to regularise the service of the petitioners w.e.f.14.5.1981 with all attendant monetary and consequential benefits.

For appellant : M.T.Ananthi
For respondents : Mr.P.S.Sivashanmugasundaram,
Special Government Pleader

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the parties.

2. The writ appeal has been filed by the writ petitioners challenging the order passed by the learned Single Judge dismissing the writ petition which was filed by them seeking a direction to the respondents to regularise the services of the appellants with effect from 14.5.1981 with all attendant, monetary and consequential benefits.

3. It appears that the services of the appellants as Night Watchman in the Education Department were regularised by the Government with effect from 6.11.1992, i.e., on their completion of ten years of service. But, the claim of the appellants is that on the basis of G.O.Ms.No.107 P&AR Department, dated 5.2.1987, they are entitled to get regularisation benefits from the date on which they complete five years of service.

4. Having heard the learned counsel appearing for the parties, and perused the order passed by the learned Single Judge and also the Government Order concerned, we find that the terms 'may send' used in the G.O. referred to above, suggests that the Heads of Departments are vested with a discretionary power to forward proposals for creation of adequate number of posts for bringing the contingent workers who have worked for five years to regular establishment. On exercising such power,

the authority appears to have fixed some norms for regularising the contingent workers and accordingly, they take a stand that for getting the regularisation benefit, the employee should have completed five years of continuous service without any break and they should have been selected through the employment exchange. In the case on hand, the appellants do not appear to have satisfy such norms as they do not appear to have been selected through employment exchange and they have some break in their service. Such being the case, we cannot find fault with the decision taken by the authority in regularising the services of the appellants only at a later date.

5. Even in respect of the contingent temporary services rendered by the appellants, the learned Single Judge has observed that the appellants have to approach the competent authority for the purpose of counting of 50% of the services in view of the amended Rule 11 of the Tamil Nadu Pension Rules. Therefore, nothing more requires to be adjudicated. The order passed by the learned Single Judge does not require any interference. The writ appeal is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

ssk.

To:

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Thiruvarur District.

+1 CC to M.T.Ananthi, advocate sr 14894.

+1 Cc to Govt. Pleader sr 15936.

MP (CO)
SP (26/03/2018)

W.A.No. 217 of 2018

सत्यमेव जयते

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