

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22.02.2018

Coram

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

W.A.No.1272 of 2013
and M.P.No.1 of 2013

1.State of Tamil Nadu
rep by the Secretary
Highways Department
Fort St.George, Chennai.

2.The Chief Engineer, Highways Department
Chepauk, Chennai 600 005.

3.The Divisional Engineer,
Highways Department
Kallakurichi, Villupuram District. ...Appellants/Respondents 1to3

Vs.

1.U.Mani ...1st Respondent/Petitiner

2.The Accountant General
Anna Salai, Chennai. ...2nd Respondent/4thRespondent

Writ Appeal filed under Clause 15 of Letters Patent to set-aside the order dated 14.12.2012 made in W.P.No.18514 of 2010, on the file of this Court. Petition filed under Article 226 of the constitution of India to call for the records relating to the order in G.O.Ms.No.96 Highways (M) Small Ports (H.M.2) Department dated 25.5.2009 prescribing the clause denying monetary benefit and entitled to monetary benefit from the date of G.O. and quash the same as far as the petitioner is concerned and further direct the respondents to pay all monetary benefits from date of regularisation i.e. 1.8.1992 with all arrears of pay

For Appellants : Mrs.A.Sri Jayanthi
Special Government Pleader

For Respondents: No appearance

J U D G M E N T

[Judgment of the Court was delivered by K.K.SASIDHARAN, J.]

The first respondent was appointed as watchman by the Highways Department on 23 February, 1982. The Highways Department regularised the services of the first respondent and other employees by order in G.O.Ms.No.96 dated 25 May, 2009. Though his services were regularised with effect from 01 August, 1992, the Government made it clear that wages would not be paid for the period in question.

2. The first respondent after accepting the order of regularisation, filed a writ petition in W.P.No.18514 of 2010 claiming monetary benefits from the date of retrospective regularisation. The learned Single Judge allowed the said writ petition. Feeling aggrieved, the appellants have come up with this intra court appeal.

3. We have heard the learned Special Government Pleader on behalf of the appellants. None appeared on behalf of the first respondent in spite of printing his name in the cause list.

4. The first respondent was initially appointed as a watchman. The Government, considering the plight of employees who were appointed on daily wages, issued the order in G.O.Ms.No.96 dated 25 May, 2009 regularising their services on completion of ten years. Though the Government made it clear that there will be retrospective regularisation with effect from the date on which they completed ten years, a condition was incorporated that the employees are not entitled for back wages. It was the said order which was challenged in the writ petition.

5. There is no dispute that the first respondent was regularised only on the basis of the Government Order in G.O.Ms.No.96 dated 25 May, 2009. There is nothing on record to show that the initial appointment was against a sanctioned post. Similarly, there are no documents before us to arrive at a conclusion that the first respondent was sponsored by the Employment Exchange and a fair and transparent procedure was adopted in the matter of appointment as watchman.

6. The learned Single Judge proceeded as if the order regularising the services of the employee would give him right to claim back wages for the period in question. We are not in a position to agree with the views expressed by the learned Single Judge, for the simple reason that the order of regularisation was a concession given to the employees taking into account the continuous engagement. We are, therefore, of the view that the learned Single Judge was not correct in directing the appellant to pay back wages to the first respondent.

7. The order dated 14 December, 2012 is set aside. The writ petition in W.P.No.18514 of 2010 is dismissed.

In the upshot, we allow the intra court appeal filed by the State. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

gms

To

1.The Secretary, State of Tamil Nadu
Highways Department, Fort St.George, Chennai.

2.The Chief Engineer, Highways Department
Chepauk, Chennai 600 005.

3.The Divisional Engineer, Highways Department,
Kallakurichi, Villupuram District.

4. The Accountant General, Anna Salai, Chennai.

+ 1 cc to Mr. Government Pleader Sr.14028

W.A.No.1272 of 2013

SJ(CO)
EU(22/03/2018)

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