

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.38354 to 38358 of 2016

P.Arasan .. Petitioner in W.P.No.38354 of 2016
M.Kannaiyan .. Petitioner in W.P.No.38355 of 2016
M.Gandhinesan .. Petitioner in W.P.No.38356 of 2016
S.Sigamani .. Petitioner in W.P.No.38357 of 2016
P.Ramalingam .. Petitioner in W.P.No.38358 of 2016

-vs-

- 1.The Secretary to Government,
State of Tamil Nadu,
Revenue Department,
Fort St. George,
Chennai-600 009.
- 2.The Principal Secretary and
Commissioner of Revenue Administration,
Chennai-600 009.
- 3.The District Collector,
Thanjavur District,
Thanjavur.
- 4.The Tahsildar,
Thanjavur.

.. Respondents in all W.Ps

Petitions filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records of the first respondent dated 11.06.2016 vide Letter Nos.25105/Service 8(2)/2015-2, 6, 5, 4 and 3 to quash the same and consequently direct the first respondent to regularise the petitioners' service from the date of appointment namely, 25.11.1992, 24.11.1992, 27.11.1992 and 26.11.1992.

For Petitioners in all W.Ps :: Mr.R.Ganesh Kumar

For Respondents in all W.Ps :: Mr.D.Surya Narayanan,
Additional Government Pleader

COMMON ORDER

The petitioners have come up with these writ petitions questioning the correctness of the impugned Letter Nos.25105/Service 8(2)/2015-2, 6, 5, 4 and 3 dated 11.06.2016 issued by the first respondent and seeking a direction to the first respondent to regularise their services from the date of appointment namely, 25.11.1992, 24.11.1992, 27.11.1992 and 26.11.1992 respectively.

2.The case of the petitioners is that they were appointed as Night Watchman/Masalji as per the Proceedings dated 02.11.1992 issued by the fourth respondent and were posted as Night Watchman/Masalji on daily wage basis on 25.11.1992, 24.11.1992, 27.11.1992, 26.11.1992 respectively. They made several representations to the concerned authorities for regularising their services and they were informed by the respondents that their services will be regularised immediately as and when vacancy arises in the sanctioned posts. According to the petitioners, they have been continuously working as Night Watchman. However, the Government of Tamil Nadu vide G.O. Ms. No.22 Personnel and Administrative Reforms (F) Department dated 28.02.2006, had directed the concerned department to pursue action to regularise the service of the employees working in various departments who have completed ten years of service as on 01.01.2006. Based on the said Government Order, the petitioners have given representations to the concerned authorities on various dates to regularise their services citing their service rolls from the year 1992 for about 14 years. However, the third respondent vide Proceedings Na.Ka.No.4509/2012/A3 dated 02.02.2012, regularised their services with effect from 20.01.2012 fixing their salary at the time scale of pay.

3.With this background, learned counsel appearing for the petitioners would submit that the respondents department did not even consider to regularise the petitioners' services from the date of their appointment as per the G.O. Ms. No.22 dated 28.02.2006 and after a delay of six years, regularised their services with effect from 20.01.2012 and if their services had been regularised from the date of their appointment, i.e. 25.11.1992, 24.11.1992, 27.11.1992, 26.11.1992, they would be entitled for the service benefits and the pensionary benefits. He would further submit that in a similar case in W.P. No.14679

of 2006, this Court vide order dated 30.03.2007, has directed the respondents therein to fix the time scale of pay from the date of the appointment and the authorities have also implemented the order by fixing the services and sanctioned the time scale of pay from the date of their appointment. In this regard, the petitioners given a representation dated 10.12.2014 to the respondents to give effect to the regularisation of their services from the date of their appointment, but the respondents neither considered the representation nor rejected the same and therefore, the petitioners have filed Writ Petitions in W.P. Nos.15631, 15635, 15634, 15633 and 15632 of 2015 seeking a direction to the respondents to consider their representation dated 10.12.2014. This Court, by order dated 03.06.2015, has directed the first respondent to pass orders on their representation dated 10.12.2014 within a period of four months. However, the first respondent had rejected the representation vide Letter Nos.25105/Service 8(2) 2015-2, 6, 5, 4 & 3 dated 11.06.2016. Hence, they are before this Court.

4.Learned counsel appearing for the petitioners would also submit that the reason cited in the impugned letters is that the services of the petitioners were regularised in G.O. Ms. No.31 Revenue (Service-8(2)) Department dated 20.01.2012 only after relaxing the rule 4(a) (appointment), 5(1) (age limit) and 3(A) (communal rotation) of the Tamil Nadu Basic Services Rule and therefore, the request of the petitioners to regularise their services from the date of appointment cannot be accepted. When the issuance of the above said G.O. Ms. No.31 was made by the first respondent pursuant to the repeated representations made by the petitioners and followed by order passed by this Court in W.P. No.14679 of 2006, the request of the petitioners for regularisation from the date of their appointment cannot be found fault with. Moreover, even as per G.O. Ms. No.22 dated 28.02.2006, the cut of date for completion of ten years of service in the department was on 01.01.2006 and the petitioners herein had even at the time of issuance of the G.O. was eligible for regularisation as he had completed ten years of service before 01.01.2006. Learned counsel appearing for the petitioners would further submit that the petitioners were all appointed through the Employment Exchange in the year 1992 and the Government Order in G.O. Ms. No.22 has been issued directing the concerned department heads to pursue action to regularise the service of the employees working in various departments who have completed ten years of service as on 01.01.2006 and therefore, while issuing the G.O. Ms. No.31, the said G.O. Ms. No.22 has not been considered.

5.Reiterating the averments made in the counter Affidavit, the learned Additional Government Pleader appearing for the

respondents would submit that the petitioners were selected through Employment Exchange and were appointed on the basis of daily wages and the Government have relaxed the rule 4(a) (appointment), 5(1) (age limit) and 3A (communal rotation) of Tamil Nadu Basic Services Rule in the Government Order in G.O. Ms. No.31 Rev (Service-8(2)) Department dated 20.01.2012, which clearly states that there were only four permanent posts and the respondents have created two posts to regularise the services of the petitioners and therefore, the request of the petitioners to regularise their services from the date of initial appointment cannot be considered.

6.However, the Government Order in G.O. Ms. No.22 Personnel and Administrative Reforms (F) Department dated 28.02.2006, had directed the concerned department to pursue action to regularise the service of the employees working in various departments, who have completed ten years of service as on 01.01.2006. When the petitioners were appointed on 25.11.1992, 24.11.1992, 27.11.1992, 26.11.1992 respectively and they have also completed more than ten years of service before the date of issuance of G.O. Ms. No.22, this Court finds no justification to support the impugned letters issued by the first respondent and therefore, the same is quashed. The respondents are directed to regularise the petitioners' service from the date of their appointment forthwith. Accordingly, these writ petitions stand disposed of. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
State of Tamil Nadu,
Revenue Department,
Fort St. George,
Chennai-600 009.
2. The Principal Secretary and
Commissioner of Revenue Administration,
Chennai-600 009.
3. The District Collector,
Thanjavur District,
Thanjavur.

4. The Tahsildar,
Thanjavur.

+5cc to Mr.R.Ganesh Kumar, Advocate, S.R.No.84956 TO 84960
+1cc to the Government Pleader, S.R.No.85484 TO 85488

W.P.Nos.38354 to 38358 of 2016

SKV(CO)
CS/04/01/2019



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