

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K. SASIDHARAN
and
THE HONOURABLE MR.JUSTICE P. VELMURUGAN

W.A.No.356 OF 2016
AND CMP No.5337 of 2016

1. The Government of Tamil Nadu rep by its
Principal Secretary,
Revenue Department,
Fort St. George, Chennai-9
 2. The Principal Secretary/Commissioner of
Revenue Administration/Chepauk,
Chennai-600 005
 3. The District Collector,
Tiruvallur
- vs-
1. Venkatachalapathy
 2. Sekaran
- Appellants
- Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent against the order passed in W.P.No.9388 of 2013 dated 12.06.2014.

WP.NO.9388 OF 2013:-

Petition Under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus Call for records of the 1st respondent dated 6.12.2012 and made in Go.Ms.No.434 and order of the 3rd respondent dated 10.12.2012 in Rc.17090/2007/A4 and quash the same and consequently direct the respondents to regularize the services of the petitioners from the date of their initial appointment

For Appellants : Ms.A. Sri Jayanthi
Spl.G.P

For respondents: Mr.N.A. Nissar Ahmed

JUDGMENT

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

The respondents were initially appointed as Drivers on contract basis. Subsequently, Government issued an Order in G.O.Ms.No.640 Revenue (NC-IV (1) Department dated 02.11.2007, permitting the District Collectors to fill up the permanent vacancies in the post of Drivers in the District Revenue Units in the regular time scale by giving priority to the Drivers already working temporarily on consolidated pay in Tsunami units, provided they are sponsored by Employment Exchange and fully qualified to hold the post.

2. It is a matter of record that the respondents were also considered for appointment on regular basis pursuant to the above referred Government Order. The respondents were appointed on 18.12.1992. The respondents, thereafter, claimed regularisation retrospectively from 20.07.1981, taking into account their initial appointment on contract basis. The Writ Petition was allowed by the learned Single Judge. The order is under appeal, at the instance of the State.

3. We have heard the learned Special Government Pleader on behalf of the appellants. We have also heard the learned counsel for the respondents.

4. There is no dispute that the respondents were appointed on regular basis, pursuant to the Government Order in G.O.Ms.No.640 Revenue (NC-IV (1) Department dated 02.11.2007. The Government taking into account the large number of regular vacancies, permitted the District Collectors to fill up those vacancies in the post of Drivers. Since the contract employees like the respondents were working for long, the Government made it clear that such employees should be given preference.

5. There was no Government Order directing the District Collectors to regularise the services of those drivers, who were appointed on temporary/contract basis. The very Government Order proceeded as if the Collectors should follow a transparent procedure by issuing a Notification. However it was made clear that preference should be given to the existing employees who were working on contract basis.

6. The respondents submitted application for appointment pursuant to the Government Order in G.O.Ms.No.640 Revenue (NC-IV (1) Department dated 02.11.2007. They were subjected to a selection process along with other candidates. The respondents accepted the terms of employment. It was long thereafter, the

respondents made a claim for regularisation retrospectively taking into account their earlier service from 20.07.1981.

7. The learned Single Judge treated the appointments like any other contract appointment and proceeded as if the subsequent appointments were nothing but regularisation.

8. There is no question of regularising the services of the respondents retrospectively for the reason that the Government Order, by which, they were appointed, was not for regularisation. It was an order for filling up the posts on permanent basis. The respondents would be justified in their claim in case if they were regularised by way of a Government Order, which is not the case here. Such being the factual position, the learned Single Judge was not correct in directing the appellants to regularise the services of the respondents with effect from 20.07.1981 instead of 18.12.1992, the date on which, they were appointed permanently, pursuant to the Government Order in G.O.Ms.No.640 Revenue (NC-IV (1) Department dated 02.11.2007.

9. The learned Single Judge mistook the case as one of regularisation inspite of the fact that it was a simple case of permanent appointment, giving preference to the contract employees. We are therefore of the view that the order passed by the learned Single Judge is liable to be set aside.

10. In the result, the order dated 28.06.2012 is set aside. The writ petition in W.P.No.11602 of 2012 is dismissed.

11. The intracourt appeal is allowed. No costs. Consequently, connected CMP is closed.

Sd/-

Assistant Registrar (CS-iv)

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Sub Assistant Registrar

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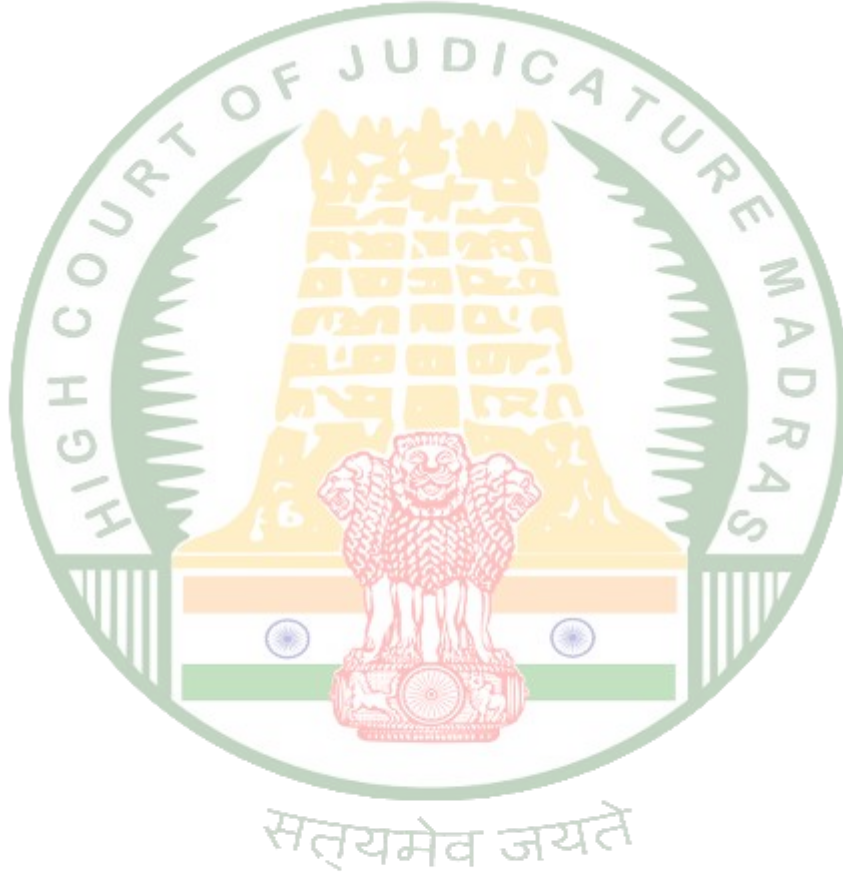
1. The principal secretary,
Revenue Department,
Fort St. George, Chennai-9
2. The Principal Secretary/Commissioner of
Revenue Administration/Chepauk,
Chennai-600 005

3. The District Collector,
Tiruvallur

+1cc to Mr.N.A.NISSAR AHMED Advocate, S.R.No. 4689
+1cc to the Government Pleader, S.R.No. 4821

W.A.No.356 of 2016

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