

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2018

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.Nos.42343 to 42347 of 2002

W.P.No.42343 of 2002

K.Anumuthu

... Petitioner

Vs.

1.The Govt. of Tamil Nadu
Rep by Secretary Housing & Urban Develop Dept
Fort St George, Chennai - 9.

2.The Managing Director
TNHB, 331, Annasalai, Nandanam, Chennai - 35.

3.The Chief Engineer
TNHB, 331, Annasalai, Nandanam, Chennai - 35.

4.The Superintending Engineer
Vellore Circle, TNHB, Vellore - 9.

5.The Executive Engineer & Admin Officer
TNHB, Hosur Division, Hosur - 9. Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Certiorarified Mandamus, calling for records in Pa.Tho.Nu.3/65116/2000-2 dated 12.11.2002 passed by the 2nd Respondent herein and quash the same and further direct the respondents to regularise the services of the petitioner as Technical Assistant or Surveyor from the date of the initial appointment with all the attended benefits.

For Petitioner : Mr.V.Sudalaiselvam

For Respondents: Mr.C.K.Chandrasekar - Amicus Curie
Mr.K.S.Suresh, Govt. Advocate (For R1)
Mr.V.Anandamoorthy (For R2-R5)

W.P.No.42344 of 2002

M.Jayashankar

... Petitioner

Vs.

1.The Govt. of Tamil Nadu
Rep by Secretary Housing & Urban Develop Dept
Fort St George, Chennai - 9.

2.The Managing Director
TNHB, 331, Annasalai, Nandanam, Chennai - 35.

3.The Chief Engineer
TNHB, 331, Annasalai, Nandanam, Chennai - 35.

4.The Superintending Engineer
Vellore Circle, TNHB, Vellore - 9.

5.The Executive Engineer & Admin Officer
TNHB, Hosur Division, Hosur - 9. Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Certiorarified Mandamus, calling for records in Pa.Tho.Nu.3/65116/2000-2 dated 12.11.2002 passed by the 2nd Respondent herein and quash the same and further direct the respondents to regularise the services of the petitioner as Technical Assistant or Surveyor from the date of the initial appointment with all the attended benefits.

For Petitioner : Mr.V.Sudalai Selvam

For Respondents: Mr.C.K.Chandrasekar - Amicus Curie
Mr.K.S.Suresh, Govt. Advocate(For R1)
Mr.V.Anandamoorthy (For R2-R5)

W.P.No.42345 of 2002
A.Mathialagan ... Petitioner

Vs.

1.The Govt. of Tamil Nadu
Rep by Secretary Housing & Urban Develop Dept
Fort St George, Chennai - 9.

2.The Managing Director
TNHB, 331, Annasalai, Nandanam, Chennai - 35.

3.The Chief Engineer
TNHB, 331, Annasalai, Nandanam, Chennai - 35.

4.The Superintending Engineer
Vellore Circle, TNHB, Vellore - 9.

5.The Executive Engineer & Admin Officer
TNHB, Hosur Division, Hosur - 9. Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Certiorarified Mandamus, calling for records in Pa.Tho.Nu.3/65116/2000-2 dated 12.11.2002 passed by the 2nd Respondent herein and quash the same and further direct the respondents to regularise the services of the petitioner as Technical Assistant or Surveyor from the date of the initial appointment with all the attended benefits.

For Petitioner : Mr.V.Sudalai Selvam

For Respondents: Mr.C.K.Chandrasekar - Amicus Curie
Mr.K.S.Suresh, Govt. Advocate(For R1)
Mr.V.Anandamoorthy (For R2-R5)

W.P.No.42346 of 2002
R.Sekar

... Petitioner

Vs.

1.The Govt. of Tamil Nadu
Rep by Secretary Housing & Urban Develop Dept
Fort St George, Chennai - 9.

2.The Managing Director
TNHB, 331, Annasalai, Nandanam, Chennai - 35.

3.The Chief Engineer
TNHB, 331, Annasalai, Nandanam, Chennai - 35.

4.The Superintending Engineer
Vellore Circle, TNHB, Vellore - 9.

5.The Executive Engineer & Admin Officer
TNHB, Hosur Division, Hosur - 9.

..... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Certiorarified Mandamus, calling for records in Pa.Tho.Nu.3/65116/2000-2 dated 12.11.2002 passed by the 2nd Respondent herein and quash the same and further direct the respondents to regularise the services of the petitioner as Technical Assistant or Surveyor from the date of the initial appointment with all the attended benefits.

For Petitioner : Mr.V.Sudalai Selvam

For Respondents: Mr.C.K.Chandrasekar - Amicus Curie
Mr.K.S.Suresh, Govt. Advocate(For R1)
Mr.V.Anandamoorthy (For R2-R5)

W.P.No.42347 of 2002
D.Geetha

... Petitioner

Vs.

- 1.The Govt. of Tamil Nadu
Rep by Secretary Housing & Urban Develop Dept
Fort St George, Chennai - 9.
- 2.The Managing Director
TNHB, 331, Annasalai, Nandanam, Chennai - 35.
- 3.The Chief Engineer
TNHB, 331, Annasalai, Nandanam, Chennai - 35.
- 4.The Superintending Engineer
Vellore Circle, TNHB, Vellore - 9.
- 5.The Executive Engineer & Admin Officer
TNHB, Hosur Division, Hosur - 9. Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Certiorarified Mandamus, calling for records in Pa.Tho.Nu.3/65116/2000-2 dated 12.11.2002 passed by the 2nd Respondent herein and quash the same and further direct the respondents to regularise the services of the petitioner as Technical Assistant or Surveyor from the date of the initial appointment with all the attended benefits.

For Petitioner : Mr.V.Sudalai Selvam
For Respondents: Mr.C.K.Chandrasekar - Amicus Curie
Mr.K.S.Suresh, Govt. Advocate(For R1)
Mr.V.Anandamoorthy (For R2-R5)

C O M M O N O R D E R

The Petitioners, who were working as Technical Assistants in the Tamil Nadu Housing Board at its Hosur Division on daily wages basis had earlier filed Writ Petitions bearing No.29212 to 29216 of 2002 in this Court seeking to regularize their services from the date of their appointment with all monetary benefits which was disposed by this Court by order dated 09.08.2002 permitting them to make fresh representations to the concerned authorities within a period of four weeks thereafter.

2.In pursuance of the representations dated 27.08.2002 submitted by the Petitioners, the Tamil Nadu Housing Board passed Resolution No. 7.05 dated 30.10.2002 stating that it has been decided not to construct any houses by formulating fresh schemes and the existing persons were far in excess of what is required and as such, it was not possible to consider the claim of the Petitioners and the earlier recommendations made for their absorption was decided to be withdrawn, which was communicated to the Petitioners by letter Pa.Tho.Nu.3/65116/

2000-2 dated 12.11.2002.

3. In that back drop, the Petitioners had filed these Writ Petitions challenging the aforesaid orders impeaching the resolution of the Tamil Nadu Housing Board and for consequential direction to regularize their services as Technical Assistants or Surveyor from the date of initial appointment with all consequential benefits. At the time of admission of this Writ Petition on 26.11.2002, this Court granted an order of interim injunction restraining the Respondents from terminating the service of the Petitioner consequent to the aforesaid order, but that interim order came to be vacated by this Court on 29.03.2003 with an observation that as and when a need arise for more employment, the Petitioners may be given preference than others.

4. When the Tamil Nadu Housing Board had passed a resolution on 30.04.2012 to fill up the vacancies of 15 Assistant Engineers and 15 Technical Assistants and 1 Land Surveyor, the same was challenged by these Petitioners, in W.P. Nos. 23822 to 23825 of 2012 and they had also sought therein for the same relief of consequential direction to the Respondents to reappoint and to regularize the services of the Petitioners as Technical Assistants/Surveyor in those Writ Petitions. This Court by a detailed order dated 04.04.2011 rejected the claims of the Petitioners and dismissed the Writ Petition and in Para 31 of that order, it has been stated as follows:-

"31. On a careful consideration of respective contentions and this Court, taking note of the fact that the Petitioners' engagement as Technical Assistants, through Letter No.A5/481/88 dated 29.11.1989, were 'purely on daily wages basis and the same were neither regular nor temporary' and further, it was made clear that they should not claim the continuance of permanent on the job, as a matter of right, comes to an inescapable conclusion that the pleas of the Petitioners to reappoint and regularise their services as Technical Assistants in the Housing Board, are not per se maintainable before this Court, in the eye of law and as such, this Court negatives their pleas. Viewed in that perspective, the plea of the Petitioners that the Tamil Nadu Housing Board passed a Resolution dated 30.04.2012 to fill up the vacancies of 15 Assistant Engineers, 15 Technical Assistants and one Land Surveyor, by ignoring their representations dated 16.05.2011, could not be sustained because of the reason that in the absence of number of Technical Assistants in Tamil Nadu Housing Board, the Board found it difficult to execute their work promptly and with a view to fill up the vacancies to avoid unnecessary delay in executing the works

smoothly and timely, the Resolution was passed.

Consequently, the Writ Petitions fail."

One of the Petitioners herein, D.Geetha, had preferred a Writ Appeal bearing W.A. No. 4022 of 2003 before the Division Bench of this Court against that order, which was also dismissed, and in para 4 of that order, it has been held as follows:-

"4.We do not find any merit in this appeal. The fact that the appellant was appointed purely on a daily wage basis is not in dispute. The letter dated 29.11.1989 clearly states that no right vests with the appellant in seeking permanency. The Government Order ini G.O.Ms.No.22, Personnel and Administrative Reforms (F) Department, dated 28.02.2006 relied upon by the appellant does not have any application, as rightly held by the learned single Judge. Even assuming for the sake of argument that the said G.O. Can be made applicable to the persons engaged by Tamil Nadu Housing Board, admittedly the appellant has not completed ten years of service, as the appointment was made only on 29.11.1989 on a daily wage basis. In such view of the matter, we do not find any merit in this appeal."

As the contentions that have been raised by the Petitioners in these Writ Petitions have already been duly considered and rejected by this Court by the aforesaid orders, the Petitioners cannot re-agitate the same by the principles akin to res judicata.

5.With regard to the claim made by the Petitioners invoking the provisions of the Tamil Nadu Industrial Establishments (Conferment of the Permanent Status to Workmen) Act, 1981, it is pointed out by Mr.C.K.Chandrasekar, the learned counsel, who was appointed as Amicus Curie to appraise this Court as to whether the Petitioners are entitled to such benefit that as per Section 7 of that Act, its provisions do not apply to workmen employed in an industrial establishment engaged in the construction of buildings or other constructions works, whether structural, mechanical or electrical and as such, the Petitioners, who were employed in the Tamil Nadu Housing Board, could not rely on the same.

6.There is no merit in these Writ Petitions and accordingly, the same are dismissed. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

maya

To

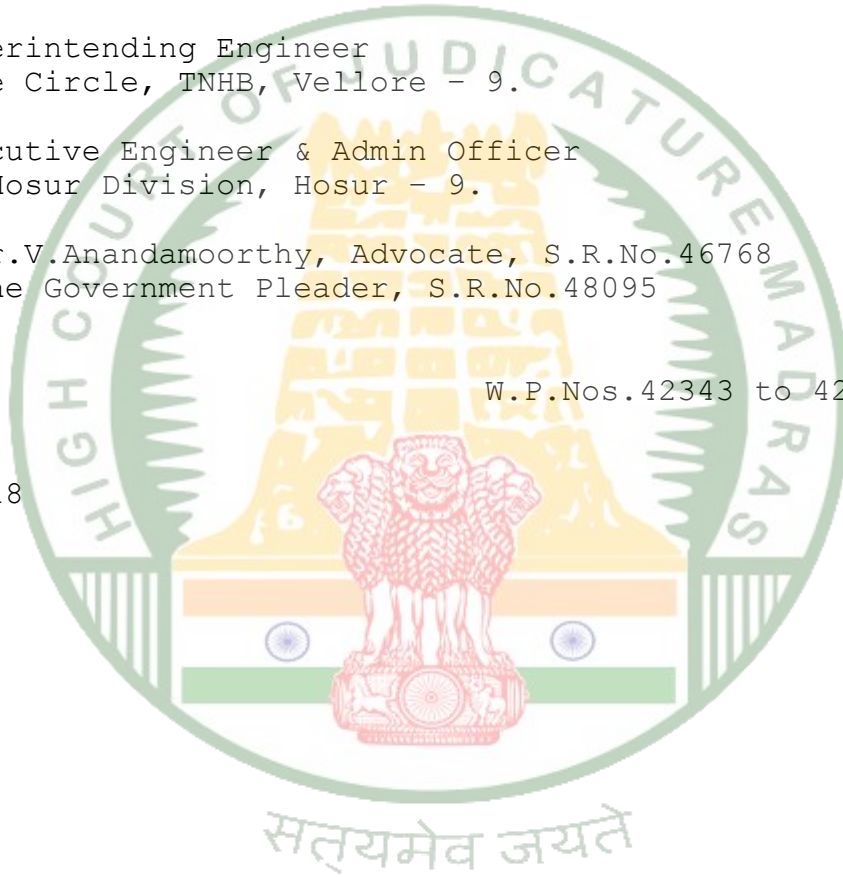
1. The Secretary
The Govt. of Tamil Nadu
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TNHB, Hosur Division, Hosur - 9.

+1cc to Mr.V.Anandamoorthy, Advocate, S.R.No.46768

+1cc to the Government Pleader, S.R.No.48095

W.P.Nos.42343 to 42347 of 2002

BR(Co)
CS/04/09/18



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