

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2018

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A.No.2571 of 2018

M.Balaguru

... Appellant

Vs.

The Principal Secretary to Government,
Personnel and Administrative Reforms Department,
Secretariat, Chennai - 600 009.

... Respondent

Writ Appeal filed under Clause 15 of the Letters Patent against the Order dated 08.06.2018 made in W.P.No.34094 of 2014.

For Appellant	:	Mr.R.Mohana Raja
For Respondent	:	Mr.P.S.Sivashanmugasundaram Spl. Govt. Pleader

J U D G E M E N T

(Order of the Court was delivered by SUBRAMONIUM PRASAD, J)

The instant writ appeal is directed against the judgment and order dated 08.06.2018 passed by this Court in W.P.No.34094 of 2014. The writ petition has been dismissed by the impugned judgment.

2. The writ petitioner states that he was appointed as Mazdoor in Public (Election) Department, on 01.04.1991 on daily wage basis in the Tamil Nadu

Secretariat. He was later transferred to Information and Tourism Department, where he served as Residential Mazdoor under the then Director of Tourism and Ex-Officio Joint Secretary to Government from 11.07.1991 to August 1992. He states that he has served for more than 270 days as Mazdoor in both departments viz., Public (Elections) and Information & Tourism, from 01.07.1991 to August 1992. It is therefore his submission that he is entitled to be absorbed as Office Assistant.

3. The writ petitioner further states that he has given various representations and further several other persons similarly situated have been absorbed by the State and their services have been regularised. He states that he was constrained to prefer W.P.No.11384 of 2013, which was disposed of, with a direction to the State to consider his representation on merits. Since the representation was rejected, he has filed the instant W.P.No.34094 of 2014. The said writ petition has been dismissed by a learned Single Judge vide order dated 08.06.2018. Aggrieved by the same, petitioner has filed the instant Writ Appeal.

4. Heard the learned counsel for the appellant/writ petitioner, learned Special Government Pleader, appearing for the respondent and perused the materials available on record.

5. The writ petition is completely misconceived. The petitioner/appellant claims absorption on the basis of his service for more than 270 days, which is not tenable in law. A perusal of the counter affidavit filed by the Government before the writ Court, would show that the Government have issued two Government Orders viz., G.O.(Ms.) No.524/P&AR(Per.F) Department dated 06.06.1983 and G.O.(Ms.) No.92/P&AR (Per.F) Department dated 30.01.1986. Paragraph No.5 of the counter affidavit, which explains the two Government Orders, reads as under.

"

1.	G.O.(Ms.) No.524/P&AR(Per.F) Department dated 06.06.1983	Instructions were issued to the Public Department and Labour and Employment Department in Secretariat to absorb the conservancy staff and contingent Mazdoors on daily wages, who have completed five years of service as per the Register maintained in the Public Department.
2.	G.O.(Ms.) No.92/P&AR (Per.F) Department dated 30.01.1986	Mazdoors who were working on daily wage basis before 20.06.1983 and who have completed five years of service were absorbed in regular establishment in the Departments in which they worked.

"

6. A perusal of the said two Government Orders, would show that only those persons who have completed five years of service are alone entitled to be absorbed. Admittedly, petitioner/appellant has served in the Information and Tourism Department from 01.04.1991 to August 1992 only and therefore, he

does not fall within the four corners of the aforesaid Government Orders. The petitioner/appellant cannot be absorbed and he cannot ask for regularisation as a matter of right. In fact, there is no right at all.

7. Learned Single Judge after considering all the facts and material on record has stated that right of regularisation does not enure merely because of the fact that the petitioner has served for 270 days, would not give him a right for regularisation of his services. Order of the learned Single Judge, does not require any interference. Hence, the instant Writ Appeal is dismissed. No Costs.

[S.M.K., J.] [S.P., J.]
26.11.2018

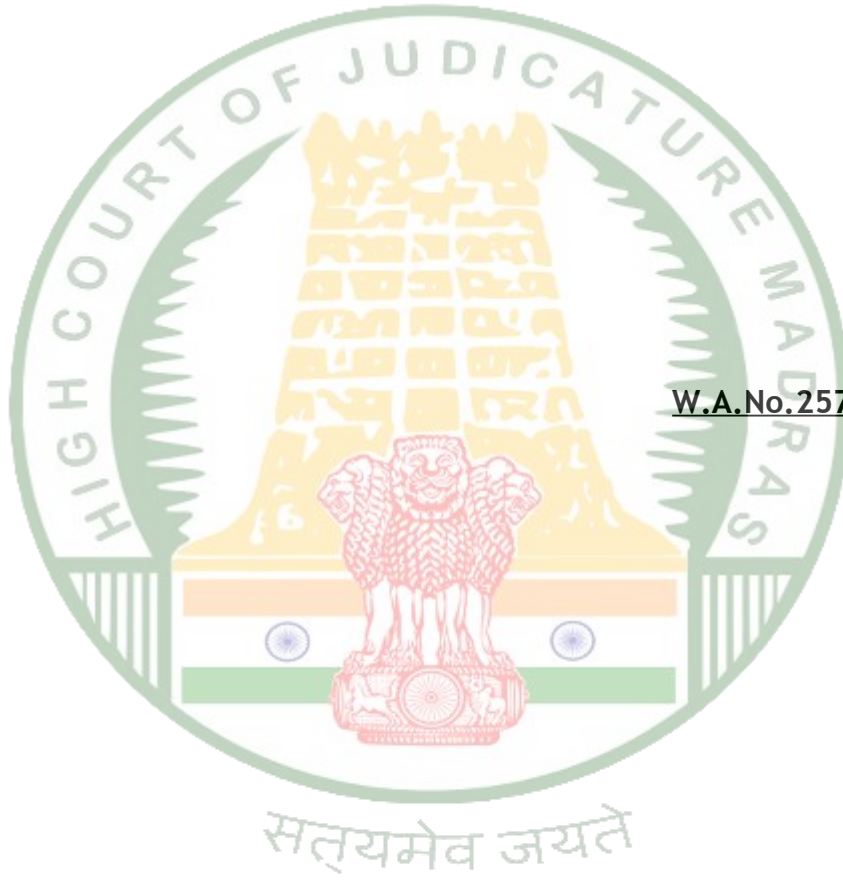
Index : Yes/No.
Internet : Yes
Speaking/Non-speaking order
ars

To

The Principal Secretary to Government,
Personnel and Administrative Reforms Department,
Secretariat, Chennai - 600 009.

S. MANIKUMAR, J.
AND
SUBRAMONIUM PRASAD, J.

ars



W.A.No.2571 of 2018

WEB COPY

26.11.2018