



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED 09.01.2018

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN  
AND

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A.(MD)No.32 of 2018

and

W.M.P.(MD)No.189 of 2018

- 1.The Managing Director,  
Tamil Nadu Water Supply and Drainage Board (TWAD),  
No.31, Kamarajar Salai,  
Chepauk, Chennai-5.
  - 2.The Secretary cum General Manager,  
Tamil Nadu Water Supply and Drainage Board (TWAD),  
No.31, Kamarajar Salai,  
Chepauk, Chennai-5.
  - 3.The Chief Engineer,  
TWAD Board,  
Madurai.
  - 4.The Superintendent Engineer,  
TWAD Board,  
Sivagangai District.
  - 5.The Executive Engineer,  
TWAD Board,  
RWS Division,  
Sivagangai District.
- ... Appellants/Respondents 1 to 5

Vs.

T.Dhasaradhan ... Respondent/Writ Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, against the order dated 24.08.2016 passed in W.P(MD)No.15736 of 2016 on the file of this Court.

Prayer in WP(MD). 15736/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to regularize the service period of the petitioner from 01.09.1981 to 11.05.1989 and include the service for pension benefits with all other benefits by considering the letter dated 23.02.2015 forwarded by the 5th respondent.

JUDGMENT

[Judgment of the Court was delivered by N.KIRUBAKARAN , J.]

This appeal has been preferred against the order passed by the learned Single Judge directing the respondents to consider the case of the petitioner in tune with the letter forwarded by the fifth respondent, dated 23.02.2015 with regard to the regularization of petitioner's service for the period from 01.09.1981 to 11.05.1989.

2.The facts of the case are as follows;

The respondent is the writ petitioner, who was selected as Turn Cock and posted at Devakotai, through Employment Exchange on NMR basis and he was brought into time scale with effect from 01.09.1981. When the petitioner was qualified for the post of Driver, he was promoted and transferred to Salem as Driver. He joined service on 12.05.1989. Thereafter, again the petitioner was re-transferred to Sivagangai in the year 1997 and reached the age of superannuation on 28.02.2015 and all the pension benefits and other terminal benefits have been given to him, except for the period from 01.09.1981 to 11.05.1989. Therefore, the original writ petitioner has approached the appellants for regularizing the period from 01.09.1981 to 11.05.1989 for the purpose of service benefits. Though the Department issued a Board Proceedings in B.P.No.36 dated 05.02.1990 regularizing the services of 300 similarly placed persons like the respondent, the name of the respondent was not included in the Board proceedings. In this regard, the respondent/writ petitioner made a representation to regularize the said period. The Superintendent Engineer, TWAD Board, Sivagangai, the 4<sup>th</sup> appellant herein sent a proposal to the 3<sup>rd</sup> appellant to regularize the petitioner's service period from 01.09.1981 to 11.05.1989, so as to enable the respondent/writ petitioner to get pension benefits and other attendant benefits. The 3<sup>rd</sup> appellant forwarded the said proposal to the 1<sup>st</sup> appellant on 03.03.2014. However, the same was returned on 29.10.2014 for some clarifications. Again, the 5<sup>th</sup> appellant sent a proposal on 10.11.2014, which was forwarded to the Department on 20.11.2014. Even after returning the proposals for two times along with the relevant details, again the proposal was forwarded to the Joint Chief Engineer, TWAD Board. In the mean while, the petitioner reached the age of Superannuation on 28.02.2015. Since, no action has been taken with regard to the inclusion of the aforesaid period in service, the petitioner has approached this Court.

3.The learned Single Judge, taking into consideration the fact that the proposal sent by the 4<sup>th</sup> appellant through 3<sup>rd</sup> appellant to the 1<sup>st</sup> appellant was pending, a direction has been given to consider the claim of the respondent/writ petitioner in tune with the letter forwarded by the 5<sup>th</sup> appellant dated 23.02.2015, giving the benefits, given to the similarly placed persons. The said order is being challenged before this Court.



4. Heard Mrs. Porkodikarnan, learned counsel appearing for the appellants and Mr. V. Paneerselvem, learned counsel appearing for the respondent.

5. Nothing is in dispute, except the question whether the period between 01.09.1981 and 11.05.1989, is required to be included in service or not. The learned Single Judge, taking into consideration the fact that similarly placed persons were given the benefits and the proposal for inclusion of the aforesaid period in service of the respondent was given by the 5<sup>th</sup> appellant to the 1<sup>st</sup> appellant through the 3<sup>rd</sup> and 4<sup>th</sup> appellants, directed the authorities to decide the matter in tune with the proposal.

6. However, the learned counsel for the appellants would submit that the direction has been complied with by rejecting the petitioner's claim stating that the writ petitioner has already retired from service and therefore, it could not be given. Further, it has been mentioned that the respondent was already appointed even before the issuance of the Board Proceedings, dated 05.02.1990 and therefore, the respondent's name could not be included in the list. The list itself was intended only for the persons, whose services were not regularized.

7. When the respondent's service was already regularized as early as on 12.05.1989, he is deemed to be in service for the aforesaid period for which, the respondent seeks regularization. The respondent/writ petitioner was already appointed through Employment Exchange and his services were regularized from 01.09.1981 to 11.05.1989, even after transferring from Sivagangai to Salem, he is deemed to be in service and the period from 01.09.1981 to 11.05.1989, has to be deemed as a service period. Therefore, the period from 01.09.1981 to 11.05.1989 should be included in the service period and the benefits should be extended to the original writ petitioner.

8. More over, the similarly placed persons were already given the benefits and hence, there could not be any problem. Further, the appellants 3 to 5 have already recommended the case of the writ petitioner for inclusion of the service for the above period and therefore, there could not be any prohibition to include the aforesaid period in the service of the petitioner or regularizing the said service period and to grant consequential benefits.

9. In view of the above, the Writ Appeal is dismissed and the consequential order passed by the authorities dated 27.03.2017 is also set aside and there shall be a direction to the appellants in the following terms:

(i) The petitioner is entitled to regularization of the service period from 01.09.1981 to 11.05.1989.

(ii) The appropriate consequential orders have to be passed within a period of 12 weeks from the date of receipt of a copy of this order.



(iii) The consequential benefits should be settled to the petitioner within a period of 4 weeks thereafter.

10. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Managing Director,  
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Sivagangai District.
5. The Executive Engineer,  
TWAD Board,  
RWS Division,  
Sivagangai District.

+1cc to M/S.V.Paneerselvam, Advocate SR.No. 41349

+2cc to M/S.Porkodi Karnan, Advocate SR.No. 41199

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and

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dss/ns

JM/SV MMS/SAR 4/13.02.2018/4P/9C