



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.10041 of 2014

and

MP (MD)No.2 & 3 of 2014

and WMP (MD)No.9871 of 2016

R.Madhalai Raja

... Petitioner

Vs.

1.State of Tamil Nadu, Rep.by
The Secretary to Govt.,
Public Works Department,
Secretariat, Chennai - 9.

2.The Principal & Chief Engineer (Public),
Public Works Department,
Chepauk, Chennai -5.

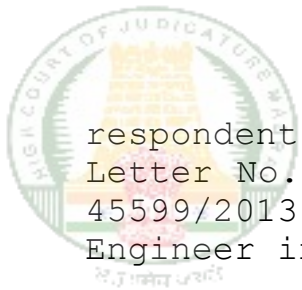
3.The Superintending Engineer,
Public Works Department,
Planning & Design Sub Divisions,
(Water Resource Organisation), Trichy - 20.

4.The Executive Engineer,
Public Works Department,
Planning & Design Sub Divisions,
(Water Resource Organisation),
Karaikudi - 1, Sivagangai District.

5.The Assistant Executive Engineer,
Public Works Department,
Planning and Design Sub Divisions,
Paramakudi,
Ramanathapuram District - 623 707.

... Respondents

Prayer: Writ petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records on the file of the second respondent in connection with the order passed by him in Letter No.S 4(1)/33071/2014 dated 28.05.2014 and quash the same and direct the respondents to regularise the service of the petitioner with effect from the date of completion of 10 years of service in the light of G.O.Ms.No.134, PWD (2) Dept., dated 07.05.2010, G.O.Ms.No.202, Public Works (C2) Department dated 01.08.2012 and the letter of the first respondent in letter No.Ko.4/U.Se.Po/Thi & Va/Parama/2012, dated 26.07.2012 and the letter of the second



respondent in letter No.S.4(1)/20795/2010, dated 07.04.2011, Letter No.S.4(1)/30410/2003, dated 19.01.2009 and Letter No.S4(1)/45599/2013, dated 31.07.2013, and the Circular of the Chief Engineer in Cir.No.CE-1/2010/Stock File, dated 21.01.2010.

WEB COPY For petitioner : Mr.R.Singaravelan, Senior Counsel
for Mr.D.Selvanayagam
For Respondents : Mr.J.Gunaseelan Muthaiah,
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2.The petitioner was employed as a Driver in the year 2003 on daily wages and on contract basis. Even according to the petitioner, he had completed 10 years of service on 29.05.2012. According to the petitioner, persons similarly placed were granted the benefit of regularisation. However, in the case of the petitioner, an order of rejection was passed on 28.05.2014 citing G.O.Ms.No.74 dated 27.06.2013. The petitioner wants this Court to set aside the said order and direct the authorities to regularise his services in the light of G.O.Ms.No.134 Public Works Department dated 07.05.2010 and G.O.Ms.No.202, Public Works (C2) Department dated 01.08.2012.

3.This Court went through the impugned order and it is seen that the petitioner has functioned on daily wages basis only for a period of 11 days between 29.05.2002 and 24.03.2003. From 01.04.2003 till 31.03.2014, the petitioner had worked only as a contract labour. The Government orders provide for regularisation only if the persons concerned had completed 10 years of service on daily wages basis. In this case, this vital requirement has not been complied with. The writ petitioner in his writ petition has not dislodged the facts set out in the impugned order. The period during which the petitioner had only been a contract labour obviously cannot be taken into account. The period during which he worked as a daily wages employee alone can be considered.

4.As already submitted, the petitioner has worked on a daily wages basis only for a period of 11 days. It is true that he has been a contract labour for a period of 11 years. But then, the same cannot be taken into account. The reasons set out in the impugned order are certainly sound in law.

5.In the decision reported in (2017) 4 SCC 113 (*State of Tamil Nadu vs. A.Singamuthu*), the Hon'ble Supreme Court held that entitlement to regularisation can be only in terms of the terms set out in the scheme itself. Long continuance in service by itself cannot confer any right as such. It was further held that Courts should not issue a direction for regularisation of services of an employee. It would be violative of the constitutional



scheme. Though the said case related to the issue of regularising the part time employees, the principles set out therein will have to be borne in mind when considering any case of regularisation.

6. In this view of the matter, the benefit of regularisation sought for by the petitioner can obviously not be granted and the authorities were right in negating the writ petitioner's plea. Therefore, this writ petition stands dismissed. Consequently, connected miscellaneous petitions are also dismissed. No Costs.

Sd/

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Public Works Department,
Secretariat, Chennai - 9.

2. The Principal & Chief Engineer (Public),
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Chepauk, Chennai - 5.

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5. The Assistant Executive Engineer,
Public Works Department,
Planning and Design Sub Divisions,
Paramakudi, Ramanathapuram District - 623 707.

+1cc to M/s. Special Government Pleader, SR.No. 48309

+1cc to Mr. D. SELVANAYAGAM, Advocate, SR.No. 47977

W.P. (MD) No. 10041 of 2014

and

MP (MD) Nos. 1, 2 & 3 of 2014

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