



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.A. (MD) No.861 of 2018

and

C.M.P. (MD) No.5261 of 2018

1. Government of Tamil Nadu,
Rep. by its Secretary to Government,
Revenue Department,
Fort St. George,
Chennai-9.
 2. The Commissioner/Director of Survey
and Settlement,
Chepauk, Chennai.
 3. The Additional Director of Survey and
Land Reforms,
Chepauk, Chennai.
 4. The Assistant Director of Survey and
Land Reforms,
Madurai-20, Madurai District. : Appellants
- Vs.
- G.Ambikapathi : Respondent

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent against the order of Writ Court dated 29.11.2016, made in W.P.(MD) No.22767 of 2016.

Prayer in WP(MD). 22767/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the 2 and 4 respondents to regularise the service of the petitioner from the date of his initial appointment as per G.O.Ms.No.996, P and A reforms (placements) Department, dt.22.09.1984 and to give notional promotion to the petitioner and to pay the monetary benefits retrospectively.

For Appellants : Mr.A.K.Baskarapandian,
Special Government Pleader

For Respondent : No Appearance

**J U D G M E N T**

[Judgment of the Court was delivered by M.M.SUNDRESH, J.]

This Writ Appeal is directed against the order of Writ Court dated 29.11.2016, made in W.P.(MD)No.22767 of 2016.

2. Heard the learned Special Government Pleader appearing for the appellants. Though the respondent was served and his name was printed in the cause-list, he has not chosen to enter appearance either in person or through a counsel.

3. The issue involved in this Writ Appeal is as to whether the services rendered by an employee, while on a consolidated pay, can be reckoned for counting the service on a permanent basis, though regularized subsequently.

4. As submitted by the learned Special Government Pleader, the issue involved is no longer res integra. The decision relied upon by the learned Single Judge has been modified subsequently by a Division Bench of this Court in W.A.No.550 of 2015, dated 20.04.2018, wherein, it has been held as follows:

"3.It is not in dispute that the respondents had been appointed through regular recruitment. In view of the ban on recruitment, the respondents were appointed on consolidated pay. The fact remains that the said appointments were against sanctioned vacancies and the Government also thought fit to regularise their services with effect from 18.01.1990. In the above background, we do not find any error in the order passed by the learned Single Judge in directing regularisation of their service. However, the learned Single Judge had further directed that their regularisation will be with all consequential benefits. We make it clear that consequential benefits will be restricted to their retirement benefits and pension alone. They will not be entitled to claim salary as regular employee before the date of their actual regularisation i.e., on 18.01.1990.

4. The intra court appeal is disposed of with the above observation."

5. In view of the aforesaid statement of law, we are inclined to interfere with the order of the learned Single Judge. Accordingly, the order of the learned Single Judge dated 29.11.2016, in W.P.(MD)No.22767 of 2016, stands set aside and the Writ Appeal stands disposed of in terms of the judgment passed by the Division Bench of this Court dated 20.04.2018 in W.A.No.550 of 2015, referred to supra. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/



To

1. Secretary to Government,
The Government of Tamil Nadu,
Revenue Department,
Fort St. George,
Chennai-9.

2. The Commissioner/Director of Survey and Settlement,
Chepauk,
Chennai.

3. The Additional Director of Survey and
Land Reforms,
Chepauk, Chennai.

4. The Assistant Director of Survey and
Land Reforms,
Madurai-20,
Madurai District.

+1CC TO SPECIAL GOVERNMENT PLEADER IN SR.No.79125.

SJL

DS RSK SAR-3;03.09.2018; 3P/6C

Judgment made in
W.A. (MD) No.861 of 2018
Dated: 16.08.2018