



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 14.02.2018

CORAM:
THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

Writ Appeal (MD).No.1389 of 2017
and
C.M.P.(MD).No.10005 of 2017

- 1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Public Works Department,
Chennai-600 009.
 - 2.The Engineer in Chief,
Public Works Department (Buildings) & General,
Chepauk, Chennai-600 005.
 - 3.The Chief Engineer,
Public Works Department,
Water Resource Organization,
Madurai Zone, Madurai-625 002.
 - 4.The Superintending Engineer,
Water Resources Organization,
Public Works Department,
Thamiraparani Basin Circle,
Tirunelveli.
 - 5.The Executive Engineer,
Public Works Department,
Water Resource Organization,
Thamiraparani Basin Division,
Tirunelveli.
 - 6.The Assistant Executive Engineer,
Public Works Department,
Water Resource Organization,
Lower Thamiraparani Basin Sub Division,
Srivaikundam, Thoothukudi District.
- ... Appellants

Vs.

1.A.Pandaram

2.N.Veerapandian

3.S.Chinnadurai

<https://hcservices.ecourts.gov.in/hcservices/>

4.S.Krishnan



5.P.Petchi

6.S.Shanmugavelu

7.K.Subbiah

8.K.Sudalimuthu

9.V.Ponraj

10.V.Thirumani

11.S.Chellathurai

... Respondents

Prayer: Writ Appeal is filed under Clause 15 of Letters Patent, to set aside the order dated 23.06.2017 made in W.P(MD).No.15800 of 2016.

Prayer in WP(MD).No.15800/2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondent nos.1 and 2 to regularize petitioner's service on completion of their ten (10) years of service on daily wages respectively as stated in the schedule as per the recommendation of the 6th Respondent to the 4th Respondent in Letter No.Ko.49/2010, dated 22.07.2010 in view of the G.O.No.22 dated 28.2.2006 and to confer all the monetary and service benefits to them in the time scale of pay, within the period stipulated by this Honble Court.

For Appellants	: Mr.D.Muruganandam Additional Government Pleader
For Respondents	: Ms.S.Vanika for A.Hajamohideen

JUDGMENT

(Judgment of the Court was delivered by T.S.SIVAGNANAM,J.)

Heard Mr.D.Muruganandam, learned Additional Government Pleader appearing for the appellants and Ms.S.Vanika, learned counsel appearing for the respondents.

2.This appeal by the State is filed challenging the order passed in W.P(MD).No.15800 of 2016 dated 23.06.2017. The said writ petition was filed by the respondents praying for issuance a writ of mandamus to direct the appellants to regularise their service on completion of ten years of service on daily wages. As per the recommendation of the sixth appellant vide letter dated 22.07.2010, by taking into consideration G.O.Ms.No.22 Personnel and Administrative Reforms (F) Department, dated 28.02.2006, the respondents/writ petitioners were engaged as Mazdoor Category-I by

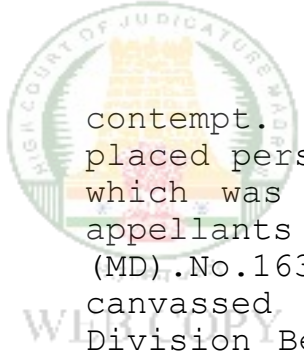


the appellants and salary was paid accordingly. Though the respondents were treated as contract workers, they were continuously employed and they made several representations for regularising their services, however, there was no response.

3. At that juncture, the Government took a decision by passing G.O.Ms.No.22 Personnel and Administrative Reforms (F) Department, dated 28.02.2006, to regularise the services of employees on completion of ten years of continuous service. Since the appellants did not pass any orders based on the said Government order, in spite of the representation, the respondents filed a writ petition before the Writ Court.

4. The respondents/ writ petitioners placed reliance on the decision in the case of F.Gulzar Bash Vs. The Secretary to Government, Rural Development and Panchayat Raj Department, Chennai reported in W.P.No.8825 of 2011, dated 11.04.2011. In the said writ petition also, an identical contention was raised and the Court, after taking into consideration the earlier orders, allowed the writ petition. Further, the respondents/writ petitioners placed reliance on G.O.Ms.No.42, Rural Development and Panchayat (Pa.Aa.7) Department, dated 28.06.2011, where the Government has dealt with several individual cases and regularised their services on completion of ten years. Further G.O.(2D).No.4, Rural Development and Panchayat (E5) Department, dated 12.01.2012 was relied on wherein, the appellants implemented the direction issued in W.P.No.29013 of 2010, dated 21.12.2010. Reliance was placed on other decisions of the Writ Court and the writ petition was allowed. The Court noted that the appellants, in the counter affidavit in the writ petition, have admitted the fact that various orders passed by the Court and in respect of the similarly placed person have been implemented. Thus, the Court concluded that there are discretionary met out the respondents, accordingly, allowed the writ petition with direction to the appellants to regularise the respondent's services on completion of their 10 years services on daily wages with all other monetary and service benefits.

5. The learned Additional Government Pleader appearing for the respondent vehemently contended that the reliance placed on G.O.Ms.No.22, dated 28.02.2006 is not correct and subsequently, an amendment was issued in G.O.Ms.No.74 Personnel and Administrative Reforms (F) Department, dated 27.06.2013 and the said clarification would only apply. Further, the learned Additional Government Pleader placed reliance on the decision of the Division Bench in the case of State of Tamilnadu rep. By Secretary to Government and others v. M.Seeniammal and others reported in 2014 (5) CTC 474, wherein in the Court held that the G.O.Ms.No.22 is not applicable to Part Time employees, consolidated pay employees and employees appointed on temporary basis. In fact in the said decision, the respondent/writ petitioner contended that several orders have been implemented. This argument was not accepted by the Division Bench holding that those orders were complied with under the threat of



contempt. However, in the case of the respondents, identically placed persons had moved the Writ Court in W.P(MD).No.12389 of 2014, which was allowed on 15.06.2016. As against the said order, the appellants herein, preferred appeal before the Division Bench in W.A (MD).No.1630 of 2016 and in the writ appeal, the appellants canvassed the effect of the G.O.Ms.No.74 dated 27.06.2013. The Division Bench, while having considering the matter has taken note of the fact that the case of one other similar placed person namely, D.Ramakrishnan, Daily Wages Mazdoor Grade-I in the Public Works Department filed W.P(MD)No.37024 of 2006 in which a direction was issued and it was complied with and he was regularized in service. Further the Court also took into consideration G.O.(2D).No.29, Public Works (C2) Department, dated 09.02.2016. As against the said Judgment, the appeals were preferred before Hon'ble Supreme Court in SLP.No.15703 of 2017 which was dismissed by an order dated 24.07.2017. Thus, in the background of the above facts which are not disputed, the petitioner cannot now seek to re-argue the matter based upon G.O.Ms.No.74 as similarly placed persons as that of the petitioners have been regularised. Thus, for the above reasons, the appellants have not made out the case for interfering with the order passed in the writ petition. Accordingly, the writ appeal fails and stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

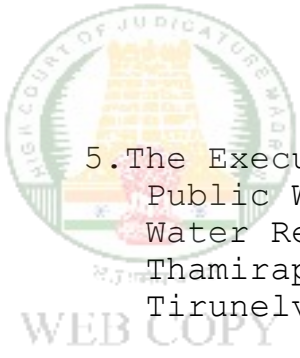
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government of Tamil Nadu,
Public Works Department,
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- 2.The Engineer in Chief,
Public Works Department (Buildings) & General,
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5.The Executive Engineer,
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6.The Assistant Executive Engineer,
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Water Resource Organization,
Lower Thamiraparani Basin Sub Division,
Srivaikundam, Thoothukudi District.

+1cc to Special Government Pleader, SR.No. 48818

+1cc to M/S.A.Hajamohideen, Advocate SR.No. 48811

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rmk/mrn

JM/SKN RSK/SAR 1/01.03.2018/5P/9C