



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 07.02.2018

CORAM :

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P (MD) Nos. 7929 and 7930 of 2014

and

WMP (MD) Nos. 9046, 18224 and 18225 of 2017

- 1.S.Kalavathi
- 2.R.Rajasekar
- 3.G.Ezhilarasi
- 4.G.Srinivasan
- 5.M.Lakshmi
- 6.T.Rani
- 7.Razia Sulthana Begam
- 8.K.Packia Rani
- 9.A.Sophy Thanka Rani
- 10.A.John Philip
- 11.B.Kalaiselvi
- 12.P.Sumathi
- 13.T.Sarojini

.... Petitioners in
W.P.7929/14

- 1.R.Sundaram
- 2.S.Rajendra Stephen
- 3.L.Palanisamy
- 4.N.Selvarangan

... Petitioners in
W.P.7930/14

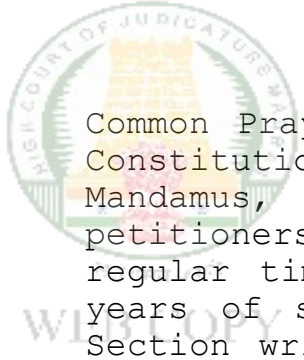
Vs.

- 1.The State of Tamilnadu,
rep. by its Secretary to Government,
School Education Department,
Secretariat, Chennai - 9.
- 2.Director of Government Examination,
College Road, Chennai - 6.
- 3.The Joint Director (Employees),
Directorate of Government Examination,
Chennai - 6.

- 4.The Regional Deputy Director,
Government Examination,

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

... Respondents



Common Prayer : Writ Petitions are filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 4 to regularize the petitioners services and grant/together with the benefit of the regular time scale of pay w.e.f. the date they have completed 10 years of service since the date of their initial appointment as Section writer/mazdoor on temporary basis and to grant all other consequential monetary and service benefits including pay-fixation based on the same together with arrears on such pay fixation as was given to the petitioners counter parts working in Cuddalore vide Judgment dated 05.07.2012 in W.P.No.11097 of 2012 within a time frame fixed by this Court.

In both petitions

For Petitioner : Mr.B.Saravanan

For Respondents : Mr.J.Gunaseelan Muthaiah,
Addl., Government Pleader for R1

ORDER

The petitioners in both the writ petitions were working on daily wage basis in the office of the fourth respondent. Most of them were appointed in the years 1985/1986. Some of them were appointed during the years 1988 - 1991. Both were regularised w.e.f. 20.10.2006 and brought into regular time scale of pay. This benefit was conferred by applying G.O.Ms.No.22 dated 28.02.2006.

2.The grievance of the petitioners is that instead of regularising their services on completion of ten year of service from the date of their initial appointment, the authorities erred in granting regularisation w.e.f. 20.10.2006. They have therefore filed these present writ petitions seeking the aforesaid relief and for disbursement of other consequential benefits.

3.The learned counsel for the petitioners would reiterate the stand taken in the affidavits and placed reliance on G.O.(ID) No.286, School Education (GE1) Department dated 19.07.2016. In para 6 of the aforesaid G.O., it has been mentioned that the said government order has been issued as a special case and to avoid consequences of contempt of Court.

4.Heard the learned counsel on either side.

The petitioners herein were working on daily wage basis. Their claim for regularisation can be traced only to G.O.Ms.No.22 dated 28.02.2006. The said Government Order states that action for regularisation of the services of daily wage employees working in all government department, who have rendered 10 years of service as on 01.01.2006 was ordered. Therefore, there is no basis for lodging the claim that they should have been regularised on completion of 10 years of service from the date of their initial appointment. The material date is completion of 10 years of service as on 01.01.2006.



5.It is true that individual writ petitions came to be filed by quite a few employees and this Court had also passed orders directing their regularisation on completion of 10 years of service from the date of their initial appointment. It is also true that the Government have implemented the orders of this Court in such cases. But, issuance of G.Os. in such individual cases cannot afford basis for granting relief to the present petitioners.

6.It is also to be mentioned that the petitioners who got benefit of G.O.Ms.No.22 dated 28.02.2006 have not chosen to question the orders of regularisation issued in their favour. These writ petitions have been filed in the nature of writ of mandamus. When already the petitioners have been given the benefit of regularisation that too as early as the year 2008 conferring regular time scale of pay w.e.f. 20.10.2006, the petitioners cannot be allowed to mount a challenge several years later. If the petitioners felt aggrieved by the date from which they were conferred the benefit of regularisation, they should have challenged the same immediately thereafter. The petitioners have not done so.

7.The Hon'ble Supreme Court in the decision of *State of Tamil Nadu Vs. A.Singamuthu* reported in (2017) 4 SCC 113 observed that it would be an error to extend the benefit of G.O.Ms.No.22 dated 28.02.2006 retrospectively from the date of completion of 10 years of service as per the date of initial appointment. It was further observed that the adverse impact on the exchequer in a huge manner will have to be taken note of. More than anything else, when the Government order confers the benefit of regularisation from the date of order coming into force, it is not open to this Court to retrospectively apply the said G.O. In the present case, the persons who had already been granted the benefit of regularisation are knocking the doors of the Court. The reliance placed by the petitioners on the earlier orders of this Court is misplaced and misconceived. The writ petitioners will have to trace their right independently. Therefore, this Court has to necessarily reject the arguments advanced on the side of the petitioners. There is absolutely no merit in these writ petitions. They stand dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub-Assistant Registrar



To

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- 1.The Secretary to Government,
State of Tamilnadu,
School Education Department,
Secretariat, Chennai - 9.
- 2.Director of Government Examination,
College Road, Chennai - 6.
- 3.The Joint Director (Employees),
Directorate of Government Examination,
Chennai - 6.
- 4.The Regional Deputy Director,
Government Examination,
Trichirappalli.

+1cc to Mr.S.Saravana Kumar, Advocate, SR.No.47141

+One cc to Mr.B.Saravanan, Advocate, SR.No.47136

+One cc to The Special Government Pleader, SR.No.47201

Arul

RL/8C/4P/SV/MMS/SAR2/20/2/2018

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