



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.01.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.1305 of 2016

and

WMP(MD)No.18367 of 2017

G.Neelamegam

... Petitioner

Vs.

1.The Secretary to Government,
Highways Department,
Fort. St. George, Chennai - 600 009.

2.The Chief Engineer,
Highways and Rural Works Department,
Chepauk, Chennai - 600 005.

3.The Divisional Engineer,
Highways Department,
Construction and Maintenance
Division, Madurai - 625 002.

4.The Assistant Divisional Engineer,
Highways Department,
Construction and Maintenance,
Madurai West, Tallakulam,
Madurai.

... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order issued by the fourth respondent in his proceedings in Se.Mu.Ka.05/2013/Aa2 dated 08.11.2013 and consequential order of the third respondent in Se.Mu.Ka.4197/2014/Aa2 dated 03.12.2014 quash the same as illegal in so far as the date of the petitioner's regularization of service alone is concerned and consequently direct the third respondent herein to regularize the petitioner's services as a Salai Paniyalar after completion of ten years service viz., with effect from 01.11.1990 and to pay all consequential monetary benefits from said period to the petitioner within the time stipulated by this Hon'ble Court.

For Petitioner

: Mr.J.Lawrance

For respondents

: Mrs.S.Srimathy,

Special Government Pleader

O R D E R

The writ petitioner was working as a Gang Mazdoor (Salai Paniyalar) from 1980 onwards. Seeking regularization of his services, the petitioner moved the Administrative Tribunal by filing O.A.No.5465 of 1997. Consequent to the abolition of the Tribunal, the said O.A got transferred to the Hon'ble High Court. The petitioner herein was one of the petitioners. The writ petitioner figured as the fourth petitioner.

2. When the matter was taken up for final hearing, the Government Advocate appearing for the respondent had submitted that proposals for regularization have been sent to the Government and that the orders of the Government were awaited. It was made clear that the petitioner had already completed 10 years of service and that he was eligible for regularization. This submission was recorded and in that view of the matter, the learned Judge dismissed the writ petition as no orders were found to be necessary.

3. The writ petitioner was however made to wait and no orders were passed. Therefore, he was constrained to renew his request. He had to again knock the doors of this Court and he filed WP(MD) No.14615 of 2011. This Court by order dated 07.11.2012 took note of the statement made by the Special Government Pleader appearing for the respondents that the case of the writ petitioner had already been sent for regularization by the Divisional Engineer, Construction and Maintenance, Highways Department, Madurai to the second respondent herein and considering the long length of service rendered by the petitioner for about 25 years and since his case going to be considered on the basis of G.O.Ms.No.22, Personnel and Administrative Reforms (F) Department dated 28.02.2006, had allowed the writ petition and directed the Government to pass appropriate orders at the earliest point of time.

4. The third respondent proceeded to pass orders of regularization in favour of the writ petitioner on 03.12.2014. But, in the said proceedings, it was mentioned that the writ petitioner's service will be regularized only with effect from 08.11.2013. It is this that is questioned in this writ petition.

5. The learned counsel appearing for the writ petitioner would submit that the services of the writ petitioner must be regularized with effect from the date of completion of 10 years ie., 01.11.1990.

6. The learned Special Government Pleader appearing for the respondents would submit that though it was originally proposed to consider the case of the writ petitioner based on G.O.Ms.No.22, dated 28.02.2006, the said Government order itself was subsequently superseded vide G.O.Ms.No.74, Personnel and Administrative Reforms (F) Department, dated 27.06.2013. The learned Special Government Pleader would further contend that the order impugned in the writ petition does not deserve to be set aside. She would also contend that the writ petitioner was a back door entrant. She highlighted



the fact that the deviations highlighted in the G.O.Ms.No.74, dated 27.06.2013 are squarely applicable to the case of the writ petitioner.

7.This Court cannot permit the respondents to overreach the orders passed in WP.No.28843 of 2006 and WP(MD)No.14615 of 2011. In both cases, it was specifically submitted by the learned counsel appearing for the department that the writ petitioner's services will be regularized since he had already completed 10 years of service. In fact, in the second writ petition, G.O.Ms.No.22, dated 28.02.2006 was specifically referred to. Therefore, this Court will have to necessarily hold that the case of the writ petitioner is governed by G.O.Ms.No.22, dated 28.02.2006. The said Government Order states that those who have completed 10 years of service as on 01.01.2006 their services will have to be regularized.

8.Therefore, this Court cannot look into G.O.Ms.No.74, dated 27.06.2013 to determine the rights of the writ petitioner. The rights of the writ petitioner had already stood crystallized even before passing of the G.O.Ms.No.74, dated 27.06.2013. Therefore, the date of regularization mentioned in the impugned proceedings dated 03.12.2014 will have to be necessarily modified. The impugned proceedings are therefore quashed to that extent alone. The respondents are directed to regularize the service of the writ petitioner with effect from 01.01.2006. This writ petition is allowed accordingly. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(C.O.)

/True Copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government, Highways Department,
Fort. St. George, Chennai - 600 009.
- 2.The Chief Engineer, Highways and Rural Works Department,
Chepauk, Chennai - 600 005.
- 3.The Divisional Engineer, Highways Department,
Construction and Maintenance Division, Madurai - 625 002.
- 4.The Assistant Divisional Engineer, Highways Department,
Construction and Maintenance, Madurai West, Tallakulam,
Madurai.

+1CC to Mr.J.Lawrance, Advocate, SR.No. 43325

+1CC to the Special Government Pleader SR.No.43997

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