

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2019

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P. Nos.30564 & 30565 of 2008
and M.P. Nos.1 and 1 of 2008

M.Saravanan .. Petitioner in W.P. No.30564 of 2008

M.Govindasamy .. Petitioner in W.P. No.30565 of 2008

-vs-

1.Government of Tamil Nadu
rep. by Secretary to Government,
Environment and Forests Department,
Fort St. George, Chennai-600 009.

2.The Principal Chief Conservator of Forests,
Panagal Building,
Chennai-600 015.

3.The District Forest Officer,
Krishnagiri District,
Hosur Division. Respondents in both cases

Petitions filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of mandamus directing the respondents to regularise the service of the petitioners as Driver from the date of their initial appointment on 01.09.1997 and 01.10.1998 with all consequential service and monetary benefits and to absorb them in regular establishment.

For Petitioners in both cases : Mr.M.Ravi

For Respondents in both cases : Ms.Thangavadhana Balakrishnan,
Additional Government Pleader

COMMON ORDER

The petitioners have come to this Court seeking a direction to the respondents to regularise their services as Driver from the date of their initial appointment, namely, 01.09.1997 and 01.10.1998 with all consequential service and monetary benefits and to absorb them in regular establishment.

2. According to the learned counsel for the petitioners, the petitioners have joined the service as Drivers in the office of the Forest Range, Denkanikottai Range, Hosur Division on 01.09.1997 and 01.10.1998 on daily wage basis and from the date of initial appointment, they have been continuously serving in the said post, but their services have not been regularised and they have not been absorbed in regular establishment. Learned counsel appearing for the petitioners would submit that the Government in G.O. (D) No.79, Environment and Forests Department, dated 14.03.2005, passed orders regularising the services of one I.Selvasingh in the post of Driver by granting necessary relaxation against the ban orders imposed in G.O. Ms. No.212 P & A.R. Department, dated 29.11.2001 with reference to age qualification. Therefore, the petitioners being similar placed persons as that of the said I.Selvasingh, are also entitled to the same, by virtue of the principles laid down by the Hon'ble Supreme Court in the case of Inder Paul Yadav vs. Union of India reported in 1985 (2) SCC 648. In this regard, the petitioners made representation dated 15.10.2008 to the respondents 1 and 2. Finding no response, they are before this Court seeking the above direction. Learned counsel appearing for the petitioners would submit that when the petitioners have been serving as Drivers for more than ten years from 1997 and 1998 onwards, they are entitled to have the services regularised and absorbed in regular establishment.

3. By filing counter affidavits, the learned Additional Government Pleader appearing for the respondents would submit that the petitioners are not entitled for regularisation since they have been utilised as Drivers only on daily wage basis. However, the service of I.Selvasingh was regularised in the post of Driver in G.O. Ms. No.79 Environment and Forest Department dated 14.03.2005 as a special case and in the said Government order, it has been stated that the order was passed as a special case and it cannot be quoted as a precedent. However, the Government in G.O. Ms. No.188 Environment and Forests Department (FR 2) dated 05.10.2005 issued orders among other things for supply of 225 jeeps to the territorial ranges and the Government have also accorded sanction for creation of 225 posts of Forest Guard in the scale of pay of Rs.2750-70-3300-75-4400 and issued specific orders that the incumbents of these posts with driving licence will be employed to man the above said 225 jeeps and also ordered that selection and appointment of the said posts of Forest Guards shall be by direct recruitment. Since the Government have specifically ordered to fill up the 225 posts of Forest Guard with Driving Licence by direct recruitment, the respondents pursued action to fill up the posts of Forest Guard with driving licence by direct recruitment. Since the petitioners have not completed ten years of service as on

01.01.2006 as prescribed in G.O. Ms. No.22 P & A.R. Department dated 28.02.2006, they are not entitled to seek the above direction.

4. But this Court is unable to find any justification on the part of the respondents. When it is not disputed that the petitioners were appointed on 01.09.1997 and 01.10.1998 and they have completed more than ten years of service as on today, the benefit of G.O. Ms. No.22 P & A.R. Department dated 28.02.2006 can be given to the petitioner. Accordingly, the writ petitions are allowed and the respondents are directed to regularise the service of the petitioners on the basis of the said G.O. Ms. No.22, within a period of eight weeks from the date of receipt of a copy of this order. Consequently, connected M.Ps are closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. Government of Tamil Nadu
rep. by Secretary to Government,
Environment and Forests Department,
Fort St. George, Chennai-600 009.

2. The Principal Chief Conservator of Forests,
Panagal Building,
Chennai-600 015.

3. The District Forest Officer,
Krishnagiri District,
Hosur Division.

+1 cc to The Special Government Pleader, (Forest) Sr.No.13116

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MG(CO)
CSL/12.03.2019