

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.7187 of 2010

Tmt.Dhanalakshmi

.. Petitioner

.Vs.

1.The Industries Commissioner
and Director of Industries & Commerce,
Chennai-600 005

2.The Superintendent,
Data Bank and Information Centre,
Chennai-600 041.

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, for a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent relating to R.C.No.18799/Pa 1/2009 dated 22.12.2009 and quash the same as and directed the 1st respondent to regularize the services of the petitioner in the Post of Sweeper in the Office of the Data Bank and Information Centre, Chennai-41 with all service and monetary benefits with effect from 01.06.1976.

For Petitioner : Mr.V.Ajoy Khose & M.Muthupandian
for Mr.R.Krishnaswamy

For Respondents: Ms.K.Bhuvaneswari, AGP

O R D E R

The prayer in the writ petition is for calling for the records of the 1st respondent relating to R.C.No.18799/Pa 1/2009 dated 22.12.2009 to direct the 1st respondent to regularize the services of the petitioner in the Post of Sweeper in the Office of the Data Bank and Information Centre, Chennai-41, with all service and monetary benefits with effect from 01.06.1976.

2.The issue raised in the writ petition is squarely covered by the judgment of the Hon'ble Supreme Court in State of Tamil Nadu & Another .Vs. A.Singamuthu reported in (2017) 4 SCC

113, wherein, the Hon'ble Supreme Court has set aside the judgment of the learned Single Bench and Division Bench of this Court by observing as under:

"17. The learned Single Judge of the High Court, while allowing the writ filed by the respondent extended the benefit of the said G.O. Ms. No.22 dated 28.02.2006 and directed the appellants to grant regularisation of respondent's service from the date of completion of ten years of service with salary and other benefits. The learned Judge failed to take note of the fact that as per G.O. Ms.No. 22 dated 28.02.2006, the services of employees working in various government departments on full-time daily wage basis, who have completed more than ten years of continuous service as on 01.01.2006 will be regularised and not part-time Masalchis like the respondent herein. In G.O.Ms. No. 84 dated 18.06.2012, the Government made it clear that G.O.Ms. No. 22 dated 28.02.2006 is applicable only to full-time daily wagers and not to part-time daily wagers. Respondent was temporarily appointed part-time worker as per Tamil Nadu Finance Code Volume (2) Appendix (5) and his appointment was completely temporary. The respondent being appointed as part-time Masalchi, cannot compare himself to full-time daily wagers and seek benefit of G.O.Ms.No.22 dated 28.02.2006. The Single Judge also failed to consider that the Government did not grant regularisation of services of any part-time employee on completion of ten years of his service as envisaged under the G.O.Ms. No.22 dated 28.02.2006.

18. The learned Single Judge erred in extending the benefit of G.O.Ms.No.22 dated 28.02.2006 to the respondent that too retrospectively from the date of completion of ten years of service of the respondent. The respondent was appointed on 01.04.1989 and completed ten years of service on 31.03.1999. As rightly contended by the learned senior counsel for the appellants, if the respondent is to be given monetary benefits from the date of completion of ten years of service, that is from 01.04.1999 till the date of his regularization that is 18.06.2012, the financial commitment to the State would be around Rs.10,85,113/- (approximately) towards back wages apart from

pension which will have a huge impact on the State exchequer. That apart, the learned senior counsel for the appellant submitted that in respect of Registration Department, about 172 persons were regularized under various G.Os. and if the impugned order is sustained, the Government will have to pay the back wages to all those persons from the date of completion of ten years in service and this will have a huge impact on the State exchequer. Since the impugned order directing regularization of the respondent from the date of completion of their ten years would adversely affect the State exchequer in a huge manner, the impugned order cannot be sustained on this score also.

19. It is pertinent to note that even the regularisation of services of part-time employees vide G.O.(Rt.) No.505 Finance (AA-2) Department dated 14.10.2009 and G.O.(2D) No.32 Finance (T.A. 2) Department dated 26.03.2010 was effected by extending the benefit of G.O. dated 28.02.2006 only from the date of Government Orders and not from the date of completion of their ten years of service. The Division Bench also failed to take note that G.O.Ms.No. 22 P &AR Dept. dated 28.02.2006 is applicable only to full-time daily wage employees and who had completed ten years of continuous service as on 01.01.2006 and not to part-time employees. As per G.O.(Rt.) No.84 dated 18.06.2012, the respondent is entitled to the monetary benefits only from the date of issuance of Government Order regularizing his service that is 18.06.2012. The impugned order of the Division Bench affirming the order of the Single Judge granting benefits to the respondent from the date of completion of ten years of service is erroneous and the same is liable to be set aside.

3.This issue is squarely covered by the said judgment. The Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

KP

To

1.The Industries Commissioner
and Director of Industries & Commerce,
Chennai-600 005

2.The Superintendent,
Data Bank and Information Centre,
Chennai-600 041.

+1cc to the Government Pleader, S.R.No. 79286

W.P.No.7187 of 2010

RB(CO)
GN(30/10/2019)



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