

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.01.2019

Coram

The Hon'ble Mr.Justice M.M.Sundresh

and

The Hon'ble Mr.Justice Krishnan Ramasamy

Writ Appeal Nos.528, 529 and 721 to 733 of 2016

and

C.M.P.Nos.7190, 7191, 11482, 11483, and 9468 to 9480 of 2016

1	A.BALASUBRAMANIAM...	PETITIONER	in WP No.15301 of 2014 - 721
1	K.LAKSHMI	...PETITIONER	in WP No.15302 of 2014 - 722
1	R.SAKUNTHALA	...PETITIONER	in WP No.15303 of 2014 - 723
1	M.JEEVAKALA	...PETITIONER	in WP No.15304 of 2014 - 724
1	T.SOUNDARARAJAN	...PETITIONER	in WP No.15305 of 2014 - 725
1	R.SIVASANKARAN	...PETITIONER	in WP No.15306 of 2014 - 726
1	S.EVURI	...PETITIONER	in WP No.15307 of 2014 - 727
1	R.SVITHIRIAMMA	...PETITIONER	in WP No.15308 of 2014 - 728
1	K.RENGANATHAN	...PETITIONER	in WP No.15309 of 2014 - 528
1	V.AMSARAJ	...PETITIONER	in WP No.15310 of 2014 - 729
1	M.RAVISELVI	...PETITIONER	in WP No.15311 of 2014 - 730
1	C.KALAMANI	...PETITIONER	in WP No.15312 of 2014 - 529
1	K.RAVICHANDRAN	...PETITIONER	in WP No.15313 of 2014 - 731
1	S.MUNIRATHINAM	...PETITIONER	in WP No.15314 of 2014 - 732
1	G.MANOHRAN	...PETITIONER	in WP No.15315 of 2014 - 733

VS

1 THE MEMBER SECRETARY
TAMILNADU POLLUTION CONTROL BOARD
NO.76 MOUNT SALAI GUINDY
CHENNAI-600 032.

... 1ST APPELLANT IN ALL WA'S

2 THE ASSISTANT DIRECTOR (LAB)
ADVANCED ENVIRONMENTAL LABORATORY (AEL)
TAMIL NADU POLLUTION CONTROL BOARD
CUDDALORE-607 001

... 2nd APPELLANT IN WA'S 721, 726 & 733/16

3 THE DISTRICT ENVIRONMENTAL ENGINEER,
TAMILNADU POLLUTION CONTROL BOARD
TRICHY DIVISION,
TIRUCHIRAPALLI DISTRICT.

.. 2nd APPELLANT IN WA 722/16

4 THE DISTRICT ENVIRONMENTAL ENGINEER,

TAMILNADU POLLUTION CONTROL BOARD,
COIMBATORE (NORTH) DIVISION
COIMBATORE ... 2nd APPELLANT IN WA 723/16

5 THE DISTRICT ENVIRONMENTAL ENGINEER,
TAMIL NADU POLLUTION CONTROL BOARD,
KARUR KARUR DISTRICT.
... 2nd APPELLANT IN WA'S 725 & 727/17

6 THE DISTRICT ENVIRONMENTAL ENGINEER,
TAMILNADU POLLUTION CONTROL BOARD
HOSUR, KRISHNAGIRI DISTRICT.
... 2nd APPELLANT IN WA 728/16

7 THE DISTRICT ENVIRONMENTAL ENGINEER,
TAMIL NADU POLLUTION CONTROL BOARD,
TUTICORIN DISTRICT
... 2ND APPELLANT IN WA 528/16

8 THE DISTRICT ENVIRONMENTAL ENGINEER
TAMIL NADU POLLUTION CONTROL BOARD
TIRUPPUR DISTRICT
... 2nd APPELLANT IN WA 529/16

9 THE DISTRICT ENVIRONMENTAL ENGINEER
TAMIL NADU POLLUTION CONTROL BOARD
TIRUPPUR SOUTH PALLADAM
... 2nd APPELLANT IN WA 729 & 730/16

10 THE DISTRICT ENVIRONMENTAL ENGINEER,
TAMIL NADU POLLUTION CONTROL BOARD,
PERUNDURAI, ERODE DISTRICT.

11 THE DISTRICT ENVIRONMENTAL ENGINEER,
TAMILNADU POLLUTION CONTROL BOARD,
ADVANCED ENVIRONMENTAL LABORATORY,
SALEM-4, SALEM DISTRICT
... 2nd APPELLANT IN WAS 724/16 AND 732/16

Writ Appeals filed under Clause 15 of Letters Patent
seeking to set aside the order dated 22.02.2016 in W.P.No.15301
to 15315/14.

PRAYER IN ALL THE W.P. Nos.15301 TO 15315 OF 2014: Writ
Petitions filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorarified Mandamus to call for
the entire records which culminated in issuing the proceedings

in Memo No.TNPCB/Per/P7/003646/13 dated 24.02.2014 on the file of the first respondent, quash the same and consequently direct the respondents to regularize the service of the petitioner from the date of his initial appointment with all consequential service and monetary benefits and to issue revised orders to that effect within a time limit.

For Appellants in all W.As : Mr. Abdul Saleem
For Respondents in all W.As. : Mr. P. Ganesan

COMMON JUDGEMENT

(Order of the Court was delivered by M.M.Sundresh, J,)

1.

These Writ Appeals are directed against the common order dated 22.02.2016 passed in W.P.No.15309 to 15315 of 2014.

2. We have heard the learned counsel for the respective parties.

3. The short issue, which arises for consideration in these Writ Appeals is with respect to the date of regularization.

4. It is the case of the private respondents that, they should be regularized from the date of their initial appointment and not from the date of order of regularization, whereas, the appellants contended that, their services should be reckoned only from the date of regularization.

5. The learned counsel appearing for the appellants submitted that the case of one S.Aruldoss, which was taken note of by the learned Single Judge, stands on different footing. The post of electrician was created on 23.12.1996, in which, the said S.Aruldoss was appointed. Whereas, the writ petitioners' appointment comes under the ministerial category. Secondly, it is submitted that, the private respondents, having accepted the benefits of regularization, it is not open to them to contend that their services should be reckoned from the date of initial appointment.

6. The learned counsel for the respondents submitted that the issue involved in this Writ is no longer res integra. The said S.Aruldoss filed a Writ Petition No.9969 of 2010 and obtained an order in his favour. Even in the said Writ Petition very same defence was taken, which was allowed and thereafter, the order was implemented. Not only that, similarly placed persons filed W.A.Nos.226 and 491 of 2012 before the Hon'ble Division Bench of this Court, and the Division Bench by a

judgment dated 04.10.2010, allowed the Writ Appeals with certain directions, which was also implemented by passing appropriate Government Orders in G.O.Ms.No.114 of Animal Husbandry, Dairying and Fisheries (AH6) Department, dated 06.03.2014. Therefore, the appellants contended that the present Writ Appellants are liable to be dismissed, particularly, when, initial entry was proper, viz., through the employment exchange and after satisfying the requisite qualification, which is exclusive, however to reserve.

7. Considering the above said submission, we do not find any merit in these Writ Appeals. The learned Single Judge had rightly taken note of the decision rendered in the case of S.Aruldoss, who filed a Writ Petition No.9969 of 2010 and got an order, which was subsequently implemented. The post of electrician was regularized only subsequent to the initial appointment. Secondly, even in the Writ Appeals filed by similarly placed persons in W.A.Nos.226 and 491 of 2012, the Division Bench of this Court passed the following order:-

13.The name of the said S.Mathiyalagan is found in Sl. No.25 of G.O.Ms.No.117 dated 28.08.2008. The names of the appellants in W.A.No.226 of 2012 viz., S.Rajangam and N.Thirukasu are found in Sl.Nos.140 and 141 (Ramanathapuram Region). Likewise, the name of the appellant in W.A.No.491 of 2012 viz., K.Krishnasamy is found in Sl.No.147. When the respondents have regularised the services of S.Mathiyalagan (Sl. No.25 in G.O.Ms.No.117 dated 28.08.2008) in the post of Animal Husbandry Assistant with effect from 01.07.1999 i.e. the date of joining in the regular post of Animal Husbandry Assistant and issued G.O.Ms.No.49 dated 20.02.2013, the respondents are not justified in denying the benefit to the appellants, contending that they are not similarly placed. When the appellants are similarly placed as that of S.Mathiyalagan, the respondents cannot seek to deny the benefit of regularisation of the appellants with effect from the date of joining in the regular post of Animal Husbandry Assistant.

14. We are of the view that the appellants are similarly placed as that of S.Mathiyalagan and the appellants are entitled to be regularised with effect from the date of joining in the regular post of

Animal Husbandry Assistant i.e. 21.08.1997 and 16.06.1999 respectively. The orders of the Writ Court cannot be sustained and are liable to be set aside. 14. For the foregoing reasons, the orders of the Writ Court in W.P.No.26753 of 2008 and 17559 of 2009 dated 28.09.2011 and 06.07.2011 respectively are set aside and the writ appeals are allowed. The respondents are directed to regularise the services of the appellants in the post of Animal Husbandry Assistant with effect from 21.08.1997 and 16.06.1999 respectively i.e. the date of appellants' joining in the regular post of Animal Husbandry Assistant and grant all the monetary benefits. If for any period, the appellants had been ousted for want of vacancy, the appellants shall not be entitled to any monetary benefit during that period but the same shall be taken into account for continuity of service. The respondents are directed to comply with the order within a period of four months from the date of receipt of a copy of the judgment. No costs.

8. The aforesaid order was given effect to by passing appropriate Government Orders in G.O.Ms.No.114 (mentioned supra), which is not disputed by the appellants. What the private respondents seek is only regularization of service from the date of their initial appointment. They are not seeking for salary with retrospective effect. Perhaps, they will be entitled to future benefits

9. In the light of the above discussion, we are of the view that no grounds are made out by the appellants to interfere with the order passed by the learned Single Judge. Accordingly, the Writ Appeals are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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SALEM-4, SALEM DISTRICT

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AD (CO)
GN (26/02/2019)