

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2019

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

Writ Petition No.18409 of 2019 and
WMP.No.17747 of 2019

1. S.Sakthi
2. A.Neelamegam
3. S.Ambigapathy
4. M.Marimuthu
5. A.Thiyagarajan
6. R.Sundari

.... Petitioners

Versus

1. Tamil Nadu Civil Supplies Corporation
rep. by the Managing Director,
No.12, Thambusamy Road,
Kilpauk, Chennai-600 010.
2. The Senior Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Tiruvavur Region,
Mannargudi Road,
Vilamal, Tiruvavur-613 701.
3. State of Tamil Nadu
rep. by its Secretary to Government,
Food, Co-operation and Consumer Protection
Department, Fort St. George,
Chennai-9.

... Respondents

Prayer: This petition has been filed seeking for a Writ of Mandamus directing the respondents to extend the benefits of Medical allowance and 15 days of earned leave per year to the petitioners.

For Petitioners : Ms.Ramapriya Gopalakrishnan
For Respondents : Mr.C.Munusamy,
Standing Counsel for R1 and R2

Mr.L.P.Shanmugasundaram,
Special Government Pleader for R3

ORDER

The petitioner has approached this Court seeking the following reliefs:

To issue a Writ of Mandamus directing the respondents to extend the benefits of Medical allowance and 15 days of earned leave per year to the petitioners.

2. Learned Counsel appearing for the petitioners would submit that the issue raised in this Writ Petition is no more res integra since identical claims have been allowed by an order of a learned Single Judge of this Court in W.P.No.10108 of 2008 dated 11.03.2014. The learned Counsel appearing for the petitioners would draw the attention of this Court to paragraph 5 of the Order of the learned Single Judge which is extracted here under:

'5. This Court is neither able to accept the submissions made by the learned counsel for the first respondent nor the reasonings given in the impugned order. When it is an admitted case that the Board in the 276th meeting held on 23.9.97 had decided to absorb and regularise the services of all the casual labourers, resultantly, all the petitioners were also absorbed as Packers in the time scale of pay of Rs.2550-55-2660-60-3200 by the proceedings of the Chairman cum Managing Director dated 31.12.99, the respondents cannot make a distinction between the permanent employees who were recruited through the employment exchange and absorbed from the casual labourers. Once the Board decided to absorb and regularise the petitioners as Packers on the conditions mentioned in the proceedings No.E8/109053/95 of the Chairman cum Managing Director dated 31.12.99, what was enjoyed by the petitioners on the date of regularisation cannot be deprived of or withdrawn by the impugned order on the ground that they are not eligible to get the benefits, which have been extended to the regular employees, since they were absorbed from casual labourers. Moreover, the reason that they were inadvertently extended the aforementioned benefits, therefore, they were sought to be withdrawn, is also not a good ground. As mentioned above, it is an admitted case that all the petitioners came to the first respondent Corporation as casual labourers. Subsequent to the order passed by this Court, the Board took a decision to regularise their services as Packers in the time scale of pay of Rs.2550-55-2660-60-3200 with effect from 28.6.2000. From the date of regularisation, when they were enjoying the benefits, it is absolutely unfair and unjust for the respondents to say that the petitioners were given the benefits

inadvertently before 5.4.2007, when they were already given the benefits from the date of their regularisation from 28.6.2000. After seven years, by passing the impugned order, the respondents cannot withdraw the benefits as prayed for in the writ petition. In view of the above, the writ petition stands allowed and the impugned orders are set aside. The respondents are directed to restore the benefits, as prayed for in the writ petition, to the petitioners on receipt of a copy of this order. Consequently, M.P.No.1 of 2008 is closed. However, there shall be no order as to costs.'

3. The order of the learned Single Judge was taken on appeal and the learned Division Bench vide judgment dated 10.07.2015 made in W.A.No.924 of 2015 dismissed the appeal filed by the Civil Supplies Corporation.

4. The learned Counsel for the petitioners would submit that thereafter, the Civil Supplies Corporation has implemented the direction of this Court passed by the learned Single Judge in W.P.No.10108 of 2008 dated 11.03.2014 through their Communication dated 08.08.2016.

5. The above facts are not disputed by the learned Standing Counsel appearing for the Civil Supplies Corporation.

6. In view of the settled legal position in favour of the employees, by a decision of the learned Single Judge which has been taken on appeal by the Civil Supplies Corporation and the order of the learned Single Judge having been confirmed in the appeal as referred to above and also implemented by the Civil Supplies Corporation, this Court does not think that these petitioners can be treated differently. Therefore, this Court is of the view that the petitioners in this Writ Petition are also entitled to get the same reliefs.

7. In view of the same, the Writ Petition is allowed. The respondents are directed to extend the benefit of Medical Allowance and 15 days of Earned Leave per year to the petitioners herein also.

8. The respondents are directed to pass appropriate orders within a period of four weeks from the date of receipt of a copy of this Order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Managing Director,
Tamil Nadu Civil Supplies Corporation,
No.12, Thambusamy Road,
Kilpauk, Chennai-600 010.
2. The Senior Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Tiruvarur Region,
Mannargudi Road,
Vilamal, Tiruvarur-613 701.
3. The Secretary to Government,
State of Tamil Nadu,
Food, Co-operation and Consumer Protection
Department, Fort St. George,
Chennai-9.

+2 cc to M/s.Ramapriya Gopalakrishnan, Advocate SR.No.68811
+1 cc to M/s.C.Munusamy, Advocate Sr.No.69083

AKM/23.09.19/4P-7C /

Writ Petition No.18409 of 2019

सत्यमेव जयते

WEB COPY

13.08.2019