



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.07.2019**

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU  
AND  
THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A(MD)NO.304 OF 2019  
in  
W.P(MD)No.14773 of 2013

T.Ramesh

:Appellant/Petitioner

.vs.

1.The State of Tamil Nadu,  
represented by  
The Secretary,  
Rural Development and Panchayat  
Raj Department,  
Secretariat,  
Chennai.

2.The Commissioner,  
Rural Development and Panchayat  
Raj Department,  
Panagal Building,  
Chennai -15.

3.The District Collector,  
Collectorate,  
Thanjavur.

4.The Commissioner,  
Papanasam Panchayat Union,  
Papanasam,  
Thanjavur District.

: Respondents/Respondents

**PRAYER:** Writ Appeal filed under Clause 15 of the Letters Patent praying this Court to modify the order passed by this Court in W.P (MD)No.14773 of 2013, dated 20.04.2017.

Prayer in WP(MD). 14773/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the G.O. Ms. No.28 dated 19.04.2012 issued by the 1st respondent and quash the same in respect of the regularization dated alone (13.12.2008) and consequently directing the respondents to



regularize the service in the permanent time scale basis from the date of the petitioner's initial appointment (on compassionate grounds 04.05.1990) and pay all the attendant service benefits with arrears from 04.05.1990 within a stipulated time.

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For Appellant

:Mr.R.Lakshmanan

For Respondents

:Mr.VR.Shanmuganathan  
Special Govt.Pleader**JUDGMENT**

[Judgment of the Court was made by **K. RAVICHANDRABAABU, J.**]

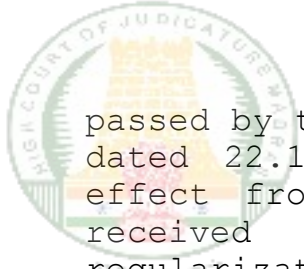
The Writ Petitioner is the appellant. He filed the Writ Petition challenging G.O.Ms.No.28, dated 19.4.2012 insofar as the regularizing his service only from 13.12.2008 with consequential relief for a direction to the respondents to regularize the service from 4.5.1990 being the date of his initial appointment made on compassionate grounds.

2.The Writ Court, after considering the facts and circumstances and the submissions made by both parties, disposed the Writ Petition with a direction to the first respondent/State Government to regularize the service of the Petitioner from 30.5.2000 and pay him all monetary benefits, which he is entitled to.

3.Thus the present Writ Appeal is filed by the Writ Petitioner by contending that regularization must be granted from the date of his initial appointment ie., from 4.5.1990 and not from the date on which he completed 10 years of service.

4.The learned counsel for the appellant contended that when the Petitioner was appointed on compassionate grounds and when the respondents have chosen to regularize the service, the regularization has to take effect from the date of initial appointment and not as has been done in this case. In support of his contention, the learned counsel relied on an order passed in W.P(MD) No.3436 of 2004 dated 8.8.2007 in the case of **Mohammed Kasim .vs. The State of Tamil Nadu represented by its Secretary to Government, Rural Development Department, Fort St.George, Chennai -9 and two others.**

5.On the other hand, the learned Special Government Pleader appearing for the respondents submitted that the very initial appointment of the Petitioner was not made on permanent basis and on the other hand, it was made as a temporary appointment with a specific condition that the Writ Petitioner would be terminated from service any time without prior notice. He further submitted that the Petitioner himself through his letter requested the Department to regularize his service only from the date on which he completed ten years of service from the date of his initial appointment. He further submitted that in pursuant to the order



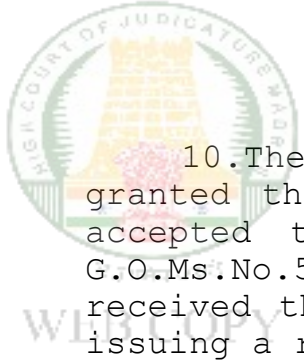
passed by the Writ Court, the first respondent passed G.O.Ms.No.551, dated 22.11.2017 and granted the benefit of regularization with effect from 30.5.2000 and consequently, the Petitioner has also received all the monetary benefits arising out of such regularization w.e.f 30.5.2000 till the date of his retirement, without any protest. Therefore, he submitted that the Petitioner is not entitled to seek for regularization from the date of his initial appointment.

6.We heard the submissions of both sides and perused the materials placed before this Court.

7.The point for consideration in this appeal is as to whether the Petitioner/appellant is entitled to get regularization from the date of his initial appointment or from the date of completion of ten years from the date of his initial appointment?

8.It is seen that the very appointment order issued in favour of the petitioner, dated 30.4.1990 would clearly indicate that the said appointment was made as a temporary appointment on compassionate grounds. The petitioner accepted the said appointment and worked in such capacity. Perusal of the letter written by the Petitioner, which is placed in the typed-set of papers filed by the learned Special Government Pleader, would show that his request for regularization of his service was only with effect from the date of completion of his ten years service. Having made such request, when the Government has regularized the service not from 1990 and on the other hand only from 13.12.2008, the Petitioner has approached this Court and filed the Writ petition by placing reliance on his letter made to the Government subsequently. Therefore, it is contended by the learned counsel for the appellant that the earlier letter written by the Petitioner has to be ignored and the later letter written by him to the Government has to be taken into account. We are not convinced on the above submissions made by the learned counsel for the appellant for the reason that when his initial appointment itself was purely on temporary basis, unless and until such temporary appointment is made permanent, by way of absorption, the Petitioner is not entitled to seek the benefit of regularization from the date of his initial appointment.

9.The learned counsel for the appellant further contended that since the Petitioner has worked in the said position from the date of his initial appointment till the date of regularization, equal pay must be granted to the Petitioner and in support of his submission, the learned counsel for the Petitioner relied on a decision in **State of Punjab .Vs. Jagdip Singh reported in (1964) 4 SCR 964=AIR 1964 SC 521**. We are not impressed upon the said submission of the learned counsel for the appellant for the reason that the very initial appointment itself is a temporary one and till the same is made permanent, he is not entitled to seek for regular time scale-of-pay. The other decision relied on by the learned counsel for the Petitioner is also factually distinguishable and therefore, it cannot be applied to this case.



10.The Writ Court has rightly considered the issue on hand and granted the benefit w.e.f. 30.5.2000 and the Government has also accepted the said order and implemented the same by passing G.O.Ms.No.551, dated 22.11.2017. It is seen that the Petitioner has received the benefit derived out of the said Government Order by issuing a receipt, dated 24.3.2018, which further indicates that he has received the amount without any protest. Therefore, We find that the present writ Appeal filed by the Writ Petitioner does not merit consideration.

11.Accordingly, the Writ Appeal stands dismissed. No costs.

Sd/-

Assistant Registrar(P&A)

/TRUE COPY/

Sub Assistant Registrar

To

1.The Secretary,  
Government of Tamil Nadu,  
Rural Development and Panchayat  
Raj Department,  
Secretariat,  
Chennai.

2.The Commissioner,  
Rural Development and Panchayat  
Raj Department,  
Panagal Building,  
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3.The District Collector,  
Collectorate,  
Thanjavur.

4.The Commissioner,  
Papanasam Panchayat Union,  
Papanasam,  
Thanjavur District.

+1 CC to M/s.SPL GP ( SR-76394[F] dated 19/07/2019 )

JUDGMENT MADE IN  
W.A(MD) NO.304 OF 2019  
18.07.2019