

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 09.08.2019

CORAM:

WEB COPY

THE HONOURABLE **MR. JUSTICE S.M.SUBRAMANIAM****W.P. (MD) No.16788 of 2014**

R.Karuppi

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep by its Principal Secretary,
Public Works Department,
Secretariat, Chennai-600 009.
2. The Chief Engineer (Construction)
Public Works Department,
Chepauk, Chennai-600 005.
3. The Superintending Engineer,
Public Works Department,
(Building Construction and
Maintenance Division)
Tirunelveli-627 002.
4. The Public Information Officer,
Office of the Executive Engineer,
Public Works Department,
Construction and Maintenance Division,
Virudhunagar.
5. The Executive Engineer,
Public Works Department,
Construction and Maintenance Division,
Virudhunagar.
6. The Assistant Executive Engineer,
Public Works Department,
Construction and Maintenance Division,
Sirivilliputhur.
7. The Assistant Executive Engineer,
Public Works Department,
Construction and Maintenance Division,
Rajapalayam.

... Respondents



PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the first respondent in Letter No.8524/C2/2014-3, dated 16.06.2014, quash the same and consequently, direct the respondents to regularize the services of the petitioner's husband from the date of his initial appointment and pay all monetary service and pensionary benefits and family pension.

For Petitioner : Mr.M.Siddharthan

For R1 to R7 : Mr.K.Mu.Muthu
Additional Government Pleader

ORDER

The order dated 16.06.2014 issued by the first respondent rejecting the claim of the writ petitioner to regularize the service of the husband of the writ petitioner from his initial date of appointment and pay all monetary benefit is under challenge in the present writ petition.

2.The writ petitioner states that her husband Sri.T.Ramar, who was employed as a contract labour on daily wage basis from 01.06.1996 to 31.12.1991 at Inspection Bungalow of Public Works Department at Rajapalayam, died on 01.01.2012. However the writ petitioner's husband continued as daily wage employee on contract basis and at the time of death, he was a daily wage employee.

3.The learned counsel for the writ petitioner states that during the relevant point of time, the Government issued G.O.Ms.No.22 granting the benefit of regularization, in respect of the temporary employees on completion of 10 years of service as on 01.01.2006 and necessary proposals were also submitted in favour of the husband of the writ petitioner. However, no order has been passed, granting the benefit of regularization on par with other similarly placed persons. Thus, the writ petitioner, who is none other than the wife of the employee filed the present writ petition seeking regularization and permanent absorption.

4.The impugned order dated 06.06.2014 states that the Government Order issued in G.O.Ms.No.22 had already been withdrawn and a modified order was passed in G.O.Ms.No74 Personnel and Administrative Reforms(F) Department dated 27.06.2013 and certain conditions were imposed. The impugned order states that the husband of the writ petitioner Late. T.Ramar has not fulfilled the required condition for regularization of the services of nominal



Muster roll employee on daily wage basis as per the schedule raised by the Public Works Department.

5. Beyond the reason stated in the impugned order that the husband of the writ petitioner is not eligible for grant of regularization, even as per the Government Order issued in G.O.Ms.No.74, this Court is of the considered opinion that the benefit of regularization or permanent absorption cannot be granted in respect of the daily wage employee, who died. The benefit of regularization is service attached benefit and only the employee is competent to claim such a benefit, if an employee died before grant of regularization then the legal heirs cannot claim regularization or permanent absorption for the purpose of getting all monetary benefits applicable to the regular employees of the department. Mere submission of the proposal by the competent authority would not confer any right on the legal heirs of the deceased daily wage employee to claim monetary benefits. Once the regularization order is issued, during the life time of the employee, then alone the legal heir can claim the monetary benefits and other welfare scheme like compassionate appointment etc.

6. In the present case, admittedly, the husband of the writ petitioner was engaged as daily wage employee on contract basis and died as such and therefore, the writ petitioner, who is the wife of the deceased employee cannot claim other monetary benefits or the benefit of regularization so as to get the monetary benefits. This being the legal principles to be followed, this Court is of the considered opinion that there is no infirmity as such in respect of the order impugned passed by the first respondent.

7. With the above observation, this Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Principal Secretary,
Government of Tamil Nadu,
Public Works Department,
Chennai-600 009.



2. The Chief Engineer (Construction)
Public Works Department,
Chepauk, Chennai-600 005.

3. The Superintending Engineer,
Public Works Department,
(Building Construction and
Maintenance Division)
Tirunelveli-627 002.

4. The Public Information Officer,
Office of the Executive Engineer,
Public Works Department,
Construction and Maintenance Division,
Virudhunagar.

5. The Executive Engineer,
Public Works Department,
Construction and Maintenance Division,
Virudhunagar.

6. The Assistant Executive Engineer,
Public Works Department,
Construction and Maintenance Division,
Sirivilliputhur.

7. The Assistant Executive Engineer,
Public Works Department,
Construction and Maintenance Division,
Rajapalayam.

+1 CC to M/s.P.KALAIYARASI BHARATHI, Advocate (SR-80923[F] dated
09/08/2019)

+1 CC to SPECIAL GOVERNMENT PLEADER (SR-81523[F] dated
13/08/2019)

W.P. (MD) No.16788 of 2014
09.08.2019

Ns

AE/ (22.08.2019) 4P 10C