



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) Nos.474 and 5997 of 2017

and

W.M.P. (MD) Nos.388 and 4729 of 2017

- 1.A.Palanisamy ... Petitioner in W.P(MD).No.474 of 2017
2.K.A.Karuppaiah ... Petitioner in W.P(MD).No.5997 of 2017

-Vs-

- 1.The Secretary
Rural Development and Panchayat Raj Department
Secretariat
Chennai
- 2.The Commissioner
Rural Development and Panchayat Raj Department
Panagal Building
Chennai 15 ... Respondents 1 and 2 in both petitions
- 3.The District Collector
Collectorate Trichy
- 4.The Commissioner
The Block Development Officer
Thiruverumbur Panchayat Union
Trichy 14 ... Respondents 3 & 4 in W.P(MD).No.474 of 2017
- 5.The District Collector
Pudukottai District
- 6.The Commissioner/
The Block Development Officer
Thirumayam,
Pudukottai District
... Respondents 3 & 4 in W.P(MD).No.5997 of 2017

COMMON PRAYER: These Writ Petitions have been filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to G.O.Ms.No.55 dated 15.06.2006 Rural Development and Panchayat (E5)



Department and quash the same in respect of the date of sanctioning the monetary benefits (15.06.2006) alone and directing the respondents to give all the monetary benefits from the date of regularization (13.05.1993) and (31.08.1995) respectively, within a stipulated time.

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(In both petitions)

For Petitioners : Mr.R.Lakshmanan

For Respondents : Mr.K.Chellapandian
Additional Advocate General
Assisted by Mr.S.Dhayalan
Government Advocate.

COMMON ORDER

Since the issues involved in these Writ Petitions are one and the same, these Writ Petitions are heard together and disposed of by way of this common order.

2.These Writ petitions have been filed to call for the records pertaining to G.O.Ms.No.55, dated 15.06.2006 Rural Development and Panchayat (E5) Department and quash the same in respect of the date of sanctioning the monetary benefits (15.06.2006) alone and directing the respondents to give all the monetary benefits from the date of regularization namely, 13.05.1993 and 31.08.1995 respectively, within a stipulated time.

3.According to the petitioners, they were appointed as Assistant Plumber from 14.05.1983 and 01.09.1985 respectively. Their services were regularised by G.O.Ms.No.55, dated 15.06.2006, Rural Development and Panchayat (E5) Department. The petitioners were given monetary benefits only from the date of G.O. ie. 15.06.2006 but, not from the date of completion of 10 years of service i.e on 13.05.1993 and 31.08.1995. The petitioners retired from service on 30.10.2011 and 31.07.2008 respectively, on attaining the age of superannuation. The petitioners came to know through newspaper that one Ravi who is similarly placed person like the petitioners has been given all the monetary benefits from the date of completion of 10 years of service as per order dated 16.04.2012 made in W.P(MD). No.12898 of 2011. The petitioners are also similarly placed persons like Ravi. The petitioners were not given monetary benefits as that of similarly placed person. The petitioners made representations to the respondents claiming monetary benefits from the date of regularization. The petitioners have given representations on 19.10.2016 and 27.12.2016 respectively, after attaining the age of superannuation and have come up with the present Writ petitions. The Writ petition in W.P(MD).No.5997 of 2017 was admitted as per the order dated 17.04.2014, in W.A.No.1157 of 2013 batch. The Writ



petition cannot be dismissed on the ground of delay and laches and hence, prayed for allowing the Writ petition.

4.The learned Additional Advocate General appearing for the respondents contended that there is no record available where the petitioners were working as Helper on daily wage basis. There is no record available with regard to the date of appointment of the petitioners and taking into consideration the age of the petitioners, the petitioners were regularized by G.O.Ms.No.55, Rural Development and Panchayat (E5) Department, dated 15.06.2006 on 13.05.1993 and 31.08.1995 respectively. The petitioners were working as Helper on daily wage basis. The petitioners have no skilled work as per Judgment of this court, dated 17.04.2014 in W.A.No.1157 of 2013 Batch. The petitioners are not entitled for regularization. As concession, considering the age of the petitioners, their services were regularized. Further, by relaxing the condition imposed in G.O.Ms.No.55 dated 15.06.2006 Rural Development and Panchayat (E5) Department, Government passed amendment in G.O.Ms.No.131, Rural Development dated 01.10.2015 and the petitioners were brought into old pension scheme. The petitioners have got two benefits and retired from services on 30.10.2011 and 31.07.2008 respectively. After retirement from services, both the petitioners received entire terminal benefits. The petitioners enjoyed the benefits given to them and the present Writ petitions have been filed after a long period of six years and nine years respectively. Hence, the petitioners are not entitled for the relief sought for in the present Writ petitions and liable to be dismissed.

5.The learned Additional Advocate General relied on the Judgment of the Hon'ble Apex Court ***in Civil Appeal No.3770 of 2017, dated 07.03.2017***, in which, paragraph 18 reads as follows:

"18.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 Department, 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

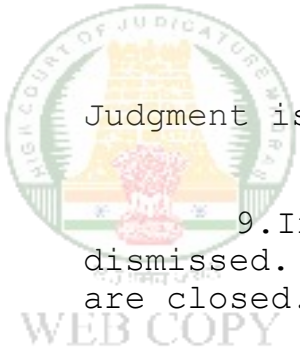


Judge granting benefits to the respondent from the date of completion of ten years of service is erroneous and the same is liable to be set aside. "

6. In the above said decision, it has been held that the employees, who have been regularized with retrospective effect is entitled to monetary benefits only from the date of G.O. One Ravi mentioned by the petitioners is not similarly placed person like the petitioners. He was working as Night Watchman. He is not similarly placed person like petitioners. Therefore, the question of equal pay for equal work does not arise. The said Ravi was working as contingent staff and prayed for dismissal of the Writ petition.

7. Heard the learned counsel appearing for the petitioner and the learned Additional Advocate General appearing for the respondents.

8. From the materials on record, it is seen that the petitioners were regularized from the date of completion of 10 years from 13.05.1993 and 31.08.1995 respectively. In the Government Order, it was made clear that the petitioners will be entitled to monetary benefits only from the date of G.O. The petitioners accepted the said condition and were receiving the salaries on the basis of regularization. They did not object to the said condition imposed in the G.O.Ms.No.55 Rural Development and Panchayat (E5) Department in the year 2006 and did not challenge the same immediately. The petitioners were regularized and were brought on time scale of daily wage basis and Subsequently, G.O.Ms.No.131 amendment was issued to the condition imposed in G.O.Ms.No.55 and they were brought into old pension scheme. The petitioners have approached this Court for the present relief only in the year 2017 and challenging the portion of Government Order dated 15.06.2006 after a period of eleven years and nine years from the date of G.O. respectively. They were seeking monetary relief from the years 1993 and 1995 respectively. The relief of monetary benefits sought after such long time from the year 1993 and 1995 is liable to be dismissed on the ground of delay and laches. The learned counsel appearing for the petitioner relied on the Judgment of the Rajasthan High Court reported **in (2000) ILLJ 1569 Raj**, which is not applicable to the facts of the present case. Further, the issue of monetary benefits from the date of regularisation was considered by the Hon'ble Apex Court in the Judgment reported in **2017 (4) SCC 113 (Secretary to Government, Commercial Taxes and Registration Department Vs. Singamuthu)**, wherein, it has been held that the employees are entitled to monetary benefits from the date of Government Order and not from the date of regularisation ie. 13.05.1993 and 31.08.1995 respectively. The ratio in the said



Judgment is squarely applicable to the facts of the present case.

9. In view of the above reasons, these Writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

msa

To

1.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, Trichy.

4.The Commissioner

The Block Development Officer
Thiruverumbur Panchayat Union
Trichy 14

5.The District Collector

Pudukottai District.

6.The Commissioner/

The Block Development Officer
Thirumayam, Pudukottai District

+2 CC to M/s.R.LAKSHMANAN, Advocate (SR-96599[F] dated 07/11/2019)

+1 CC to M/s.SPL GP (SR-96969[F] dated 08/11/2019)

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