

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.12619 of 2010

1. K.Rajendiran (Deceased)
2. Bhuvaneshwari
3. Shalini
4. Sathish Kumar ... Petitioners

(Petitioners 2 to 4 are substituted as per Order dated 12.10.2017 in W.M.P.No.7329 of 2017 in W.P.No.12619 of 2010)

-vs-

1. Government of Tamil Nadu,
Rep. by its Secretary,
Ministry of Municipal Administration and Water Supply,
Fort St.George, Chennai-600 009.
2. Chairman-cum-Managing Director,
Tamil Nadu Water Supply and Drainage Board,
Chepauk, Chennai-600 005.
3. The Executive Engineer,
Tamil Nadu Water Supply and
Drainage Board Maintenance Division,
5th Street, Gandhi Nagar,
Thiruvannamalai-606 601. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus to call for the records of the third respondent in A.Thi.Mu.No.416/NC/G dated 05.03.2007 and quash the same and direct the respondents to regularize the service of the petitioner retrospectively from 10.02.1997 and to upgrade the petitioner to Grade 1 Electrician retrospectively from 10.02.1997 and further direct the respondents to fix the petitioner's pay scale retrospectively from 01.09.1998 with resultant and monetary benefits.

For Petitioners : Mr.A.K.Rajaraman

For R1 : Mr.K.Mahesh
Spl. Govt. Pleader

For R2 : M/s.S.Thamizharasi

O R D E R

The petitioner has filed this Writ Petition, challenging the order of the third respondent dated 05.03.2007 passed in A.Thi.Mu.No.416/NC/G, declining the request of the petitioner to regularize the service of the petitioner retrospectively from 10.02.1997. The petitioner also sought for a direction to the respondents to regularize the service of the petitioner retrospectively from 10.02.1997, to upgrade the petitioner to Grade-1 Electrician retrospectively from 10.02.1997 and to direct the respondents to fix the petitioner's pay scale retrospectively from 01.09.1998 with monetary benefits.

2. It is the case of the petitioner that after his retirement from Indian Army, he had joined Tamil Nadu Water Supply and Drainage Board (in short 'TWAD Board') on 10.02.1997 on consolidated scale of pay of Rs.2000/- per month with an increment of 10% per year. The grievance of the petitioner is that his services were regularized only with effect from 01.08.2006 instead of 10.02.1997, which is not in consonance with various Government Orders and judgments of this Court. It is the further case of the petitioner that he had given a written requisition for in respect of his retrospective regularization on 30.01.2007 and on 05.03.2007, the third respondent bluntly refused both to upgrade him to Grade I Electrician and to regularize his services retrospectively. Aggrieved by the same, he is before this Court. Since the petitioner died on 27.07.2016, the legal heirs of the petitioner was brought on record as P2 to P4 on 12.10.2017.

3. The 3rd respondent filed a counter affidavit, in which, it has been stated that the petitioner had joined duty in TWAD Board on 12.02.1997 on consolidated basis and his services have been brought under regular establishment with effect from 01.08.2006 FN as per TWAD rules on the basis of the order of the Government in G.O.(MS) No.111, M.A. & W.S.Department (WS5) dated 29.09.2006. It is further stated that since the decision taken by the Government with regard to regularization of the services of the petitioners with effect from 01.08.2006 relates to the policy decision of the Government, the petitioner does not have any right to question the same. It has been further stated that when he was appointed as a consolidated staff by TWAD as per Rules, he did not object to it and the claim now made to be appointed as Electrician is not acceptable. Hence, it is prayed that the plea of the petitioner with regard to the retrospective regularization is not maintainable and the writ petition is liable to be dismissed.

4. Heard the learned counsel on either side and

perused the material documents available on record.

5. The only issue in the present Writ Petition is that the petitioner has not been regularized from the date of joining the services of TWAD and that though regularization has been given, the monetary benefits have not been extended to him. Learned counsel for the petitioner drew the attention of this Court to Paragraph Nos.17 & 18 of the counter affidavit of the 3rd respondent, wherein it has been stated as follows:

"17) Regarding Para 12 of the Affidavit to Writ Petition, it is submitted that after Managing Director's Lr.No.43350/WCE1/HO/2008/dt.13.12.2012 orders have been issued for fixation of pay to Electrician Grade-I & II with effect from 01.06.88 and monetary benefit from 01.04.92.

18) Regarding para 13 of the Affidavit to Writ Petition, it is submitted that at present as per Managing Director's Proc.No.38989/WCE5/HO/98/dt.28.02.13 orders have been issued to him to regularize the service on completion of 480 days from the date of joining in TWAD is from 12.12.97. The regularization orders will be issued shortly."

6. According to the respondents, they have decided to regularize the services of the petitioner on completion of 480 days on 12.12.1997 and that the regularization orders will be issued to him shortly. It is also fairly stated by the respondents that all the benefits pursuant to the regularization have been given to the petitioner.

7. In reply to the above, learned counsel for the petitioner submitted that even though regularization order has been issued, the monetary benefits from the date of regularization have not been given.

8. It is seen that during pendency of the Writ Petition, the petitioner had passed away and the legal heirs, namely, P2 to P4 have been impleaded in place of the deceased Rajendiran. The original petitioner would be entitled to regularization on completion of 480 days from the date of joining, which, according to the respondents, has been extended to the petitioner. In case monetary benefits have not been given to the petitioner on or from the date of regularization, the same shall be extended to the legal heirs of the original petitioner in equal proportionate, from the date of regularization of the original petitioner, in other words, from the date of completion of 480 days, if not already given, in the light of the statement made in Paragraph Nos.17 and 18 of the counter affidavit of the 3rd respondent (extracted supra), within a period of two months from the date of receipt of a copy of this order.

9. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

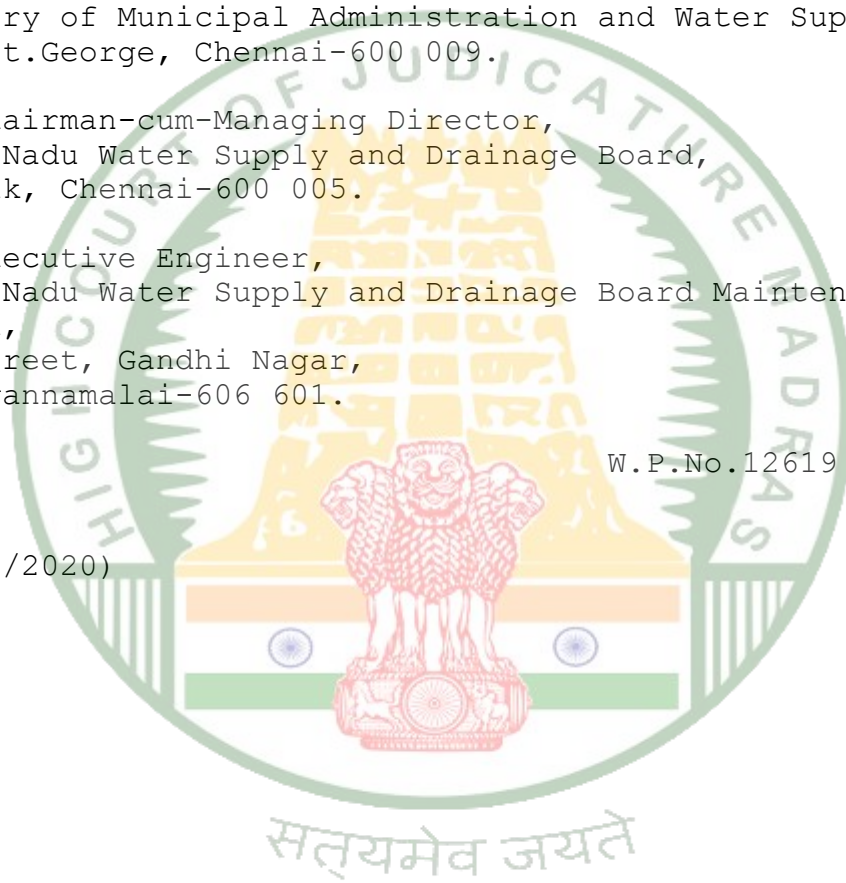
ar

To:

1. The Secretary,
Government of Tamil Nadu,
Ministry of Municipal Administration and Water Supply,
Fort St.George, Chennai-600 009.
- 2.The Chairman-cum-Managing Director,
Tamil Nadu Water Supply and Drainage Board,
Chepauk, Chennai-600 005.
- 3.The Executive Engineer,
Tamil Nadu Water Supply and Drainage Board Maintenance
Division,
5th Street, Gandhi Nagar,
Thiruvannamalai-606 601.

W.P.No.12619 of 2010

SVI (CO)
CB(17/08/2020)



WEB COPY