

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.20455, 31981 to 31983 of 2013

A.Raju ... Petitioner in W.P.20455/2013
M.Amuthaselvan ... Petitioner in W.P.31981/2013
V.G.Ganesh Kumar ... Petitioner in W.P.31982/2013
N.Jayasankarasubramaniam ... Petitioner in W.P.31983/2013

Vs.

1. Tamil Nadu Pollution Control Board
Rep. by its Chairman
No.76, Mount Salai,
Guindy,
Chennai 600 032.
2. Member Secretary,
Tamil Nadu Pollution Control Board
No.76, Mount Salai,
Guindy,
Chennai 600 032. ... Respondents in all the W.Ps.

Prayer in W.P.No.20455 of 2013:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the first respondent to consider the petitioner's representation dated 18.03.2013 in accordance with law and on its merits and pass orders on the same within the time framed stipulated by this Hon'ble Court.

Prayer in W.P.Nos.31981 to 31983 of 2013:

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the concerned records from the 2nd respondent, quash the order of the 2nd respondent bearing Memo No.TNPCB/Per/P7/24001/2013 dated 31.10.2013 in so far as the petitioners are concerned and consequently direct the respondents to regularize the services of the petitioners from 22.11.1996 being the date of initial engagement in the post of Field Assistant as done in the case of J.Balakumaran and five others vide proceedings No.TNPCB/P7/002970/2011 dated 28.01.2012.

For Petitioners : Mr.Balan Haridas
For Respondents : Mr.Kasirajan

C O M M O N O R D E R

W.P.No.20455 of 2013 has been filed seeking issuance of Writ of Mandamus directing the first respondent to consider the petitioner's representation dated 18.03.2013 in accordance with law and on its merits and to pass orders on the same within the time frame stipulated by this Court.

2.W.P.Nos.31981 to 31983 of 2013 have been filed seeking issuance of Writ of Certiorarified Mandamus calling for the concerned records from the second respondent, to quash the order of the second respondent bearing Memo No.TNPCB/Per/P7/24001/2013 dated 31.10.2013 in so far as the petitioners are concerned and to consequently direct the respondents to regularize the services of the petitioners from 22.11.1996 being the date of initial engagement in the post of Field Assistant as done in the case of J.Balakumaran and five others vide proceedings No.TNPCB/P7/002970/2011 dated 28.01.2012.

3.Since the issue involved in all these writ petitions are similar in nature they are heard together and disposed of by way of a common order.

4.The case of the petitioners is that they were sponsored by the District Employment Office for the post of Field Assistants in the respondent Board and were initially paid daily wages on monthly basis and the petitioners were doing regular nature of work. Thereafter, their services were regularized, however, their services were not regularized from the date of their initial engagement. Hence, they made representation to the respondents seeking regularisation of their services from the date of initial appointment.

5.Since the representation made by the petitioner in W.P.No.20455 of 2013 was not considered, he has filed the said writ petition. Further the representation made by the petitioners in W.P.Nos.31981 to 31983 of 2013 were rejected, they have filed the said writ petitions.

6.The learned counsel appearing for the petitioners would submit that on the basis of the order passed by this Court on 18.04.2011 in W.P.No.9969 of 2010 filed by one Mr.S.Aruldoss, who is similarly placed person like the petitioners, the respondents therein have regularised his services with retrospective effect from the date of his initial appointment.

7.The learned counsel appearing for the petitioners drawn the attention of this Court to the relevant portion of the order passed by this Court in W.P.No.9969 of 2010, dated 18.04.2011 (S.Arul Doss v. the Government of Tamil Nadu and another), and submitted that the petitioner-S.Aruldoss therein was initially appointed through the Employment Exchange as Electrician on 31.01.1996 under NMR category. Like the petitioners herein, the said S.Aruldoss was also initially regularised prospectively instead of retrospectively. Aggrieved by the same, when the said S.Aruldoss filed the above said writ petition, this Court, by

order dated 18.04.2011, directed the respondent therein to regularise his services from the date of his initial appointment.

8. For better appreciation, the relevant portion of the order passed by this Court in W.P.No.9969 of 2010, dated 18.04.2011 (S.Arul Doss vs. The Government of Tamil Nadu and another), is extracted hereunder:

'8. Therefore, in view of the similar orders passed by this Court as cited supra as well as the proceedings dated 11.04.2001 passed by the 1st respondent, this Court is constrained to allow the present writ petition and accordingly, the present writ petition is allowed as prayed for by setting aside the impugned order passed by the 1st respondent. In view of the above reasons, the respondents are directed to regularise his services from the date of his initial appointment i.e. 12.02.1996 or from 23.12.1996 with all consequential benefits within a period of eight weeks from the date of receipt of a copy of this order.'

9. The learned counsel appearing for the petitioners would further submit that the services of some of the other similarly situated persons like the petitioners were also regularized from the date of their initial engagement and hence, the petitioners services may also be directed to be regularized from the date of initial engagement.

10. The learned counsel appearing for the respondents would submit that the petitioners have approached this Court after a lapse of more than ten years from their entry into service and hence these writ petitions deserve to be dismissed on the ground of laches.

11. Heard the arguments advanced on either side and perused the materials available on record.

12. Perusal of records reveal that the petitioners were sponsored by the District Employment Office for the post of Field Assistants in the respondent Board and were initially paid daily wages on monthly basis and the petitioners were doing regular nature of work. Thereafter, their services were regularized, however, their services were not regularized from the date of their initial engagement. Further, some of the similarly situated persons services were regularized from the date of their initial engagement.

13. Considering the facts and circumstances of the case, this Court directs the respondents to consider the representation of the petitioner in W.P.No.20455 of 2013, dated 18.03.2013, on merits and in accordance with law, and in the light of the order passed by this Court in W.P.No.9969 of 2010, dated 18.04.2011

and to pass appropriate orders, within a period of three months from the date of receipt of a copy of this order.

14.This Court set aside the order impugned in W.P.Nos.31981 to 31983 of 2013 dated 31.10.2013 and remand the matter back to the respondents for fresh consideration in the light of the order passed by this Court in W.P.No.9969 of 2010, dated 18.04.2011. Such exercise shall be completed by the respondents within a period of three months from the date of receipt of a copy of this order.

15.The writ petitions are accordingly disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Chairman,
Tamil Nadu Pollution Control Board
No.76, Mount Salai,
Guindy,
Chennai 600 032.

2. The Member Secretary,
Tamil Nadu Pollution Control Board
No.76, Mount Salai,
Guindy,
Chennai 600 032.

+1cc to Mr.c.Kasirajan, Advocate in SR.NO..31757

+4cc to Mr.Balan Haridas, Advocate in

SR.NO..31323, 31324, 31326, 31327

सत्यमेव जयते

W.P.Nos.20455, 31981
to 31983 of 2013

CA(CO)
RV(20/10/2020)

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