

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR

W.P.No.232 of 2013

1.P. Nagarajan (Deceased)

2.Kalyani

3.Thanigaivel

4.Abhirami

5.Parimala Gandhi

6.Gajarajan

(P2 to P6 are substituted as LRs of the deceased P1
vide order dated 03.06.2019 made in

W.M.P.No.31036/2017 in W.P.No.232/2013). ..Petitioners

Vs

1.The State of Tamil Nadu,
represented by its Secretary to Government
Public Works Department,
Fort St. George,
Chennai - 600 009.

2.The Chief Engineer (General),
PWD Campus, Chepauk,
Chennai - 600 005.

3.The Superintendent Engineer (PWD),
Cuddalore Division,
Cuddalore.

..Respondents

Prayer:- Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Mandamus
directing the respondents to regularize the service of the
petitioner in the post of Office Assistant with effect from his
initial date of appointment on 05.05.1982 in the time scale of
pay and with all monetary and other consequential benefits.

For Petitioner

For RR 1 to 3

: M/s. Sudha Ramalingam

: Mr.J. Ramesh

Additional Government Pleader

ORDER

This writ petition has been filed by the petitioner seeking for a direction to the respondents to regularize the service of the petitioner for the post of Office Assistant with effect from his initial date of appointment on 05.05.1982 in the time scale of pay and with all monetary and other consequential benefits.

2. According to the writ petitioner, the petitioner was appointed as Waterboy in the year 1978. Thereafter, he was re-posted as Watchman in the office of the Public Works Department in 1979, Cuddalore Division Office. He continued his service in the said Department, without any break for more than 35 years in the Department. Despite his appointment in the year 1982, his service was not regularized. On 23.11.1993, the third respondent/Superintendent Engineer sent a communication to the second respondent, seeking for the issuance of a Government order for regularizing his service, but the respondents had not taken any action in this regard. Therefore, he made a representation on 29.03.2012 to the second respondent seeking to regularize the service of the writ petitioner, by communication dated 23.04.2012 and thereafter, the third respondent has made recommendation to the second respondent to regularize the service of the writ petitioner by stating that the writ petitioner has served in the Department for more than 32 years and he retired from service on attaining the age of superannuation shortly and the Department is awaiting for clarification from the Government. Therefore, the writ petitioner has come forward with the present writ petition.

3. The learned counsel for the petitioner submitted that the writ petitioner was retired from service on attaining the age of superannuation in July, 2013. The learned counsel further submitted that the Government has passed an order in G.O.(Ms). No.22, Personnel and Administrative Reforms (F) Department, dated 28.02.2006, wherein it has been held that the services of employees working in various Government Departments on daily wage basis, who have completed more than 10 years of services as on 01.01.2006 will be regularized. Therefore, the writ petitioner is also entitled for the regularization of his service. The learned counsel further submitted that similarly placed persons who have already availed the same benefits and therefore, the petitioner is also entitled for the relief as sought for in the present writ petition.

4. Mr.J.Ramesh, learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that the service of the writ petitioner cannot be regularized. Based on the

completion of 32 years of service, the aforesaid Government Order will not be applicable to the facts of the present case. According to the Additional Government Pleader, in view of the judgment of the Hon'ble Supreme Court in the case of Secretary to Government, School Education Department, Chennai Vs. R. Govindasamy and Ors., the petitioner cannot seek relief by relying upon the aforesaid Government Order in G.O.(Ms).No.22, Personnel and Administrative Reforms (F) Department, dated 28.02.2006, to consider the regularization of the service of the employees were working on daily wages in the Department. Therefore, the present relief as prayed in the writ petition cannot be granted and thus, the writ petition is liable to be dismissed.

5. The Hon'ble Supreme Court in the case of Secretary to Government, School Education Department, Chennai Vs. R. Govindasamy and Ors., reported in (2014) 4 SCC 769 in Civil Appeal Nos.2726 to 2731 of 2014, (decided on February 21, 2014) held as under:

9. The present appeals are squarely covered by Clauses (ii), (iv) and (v) of the aforesaid judgment in Daya Lal Case. Therefore, the appeals are allowed. However, in the light of the facts and circumstances of the case as Shri P.P.Rao, learned Senior Counsel has submitted that the applicant has already implemented the impugned judgments and does not want to disturb the services of the respondents, the services of the respondents which stood regularized should not be affected.

10. With the aforesaid observations, the appeals stand disposed of accordingly. No order as to costs.

6. Considering the facts and circumstances of the case, and the decision cited supra, the present writ petitioners have worked as daily wages employees in the respondent department for more than 32 years. Thus, in the light of the judgment of the Hon'ble Supreme Court cited supra, this Court is inclined to direct the first respondent, has to consider the writ petitioners' representations dated 29.03.2012 and pass appropriate orders on merits and in accordance with law as expeditiously as possible within a period of four months from

the date of receipt of a copy of this order. It is needless to say that the writ petitioner has to enclose a copy of the said representation along with order copy to the first respondent.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

msm

To

The Secretary to Government
State of Tamil Nadu, Public Works Department,
Fort St. George, Chennai - 600 009.

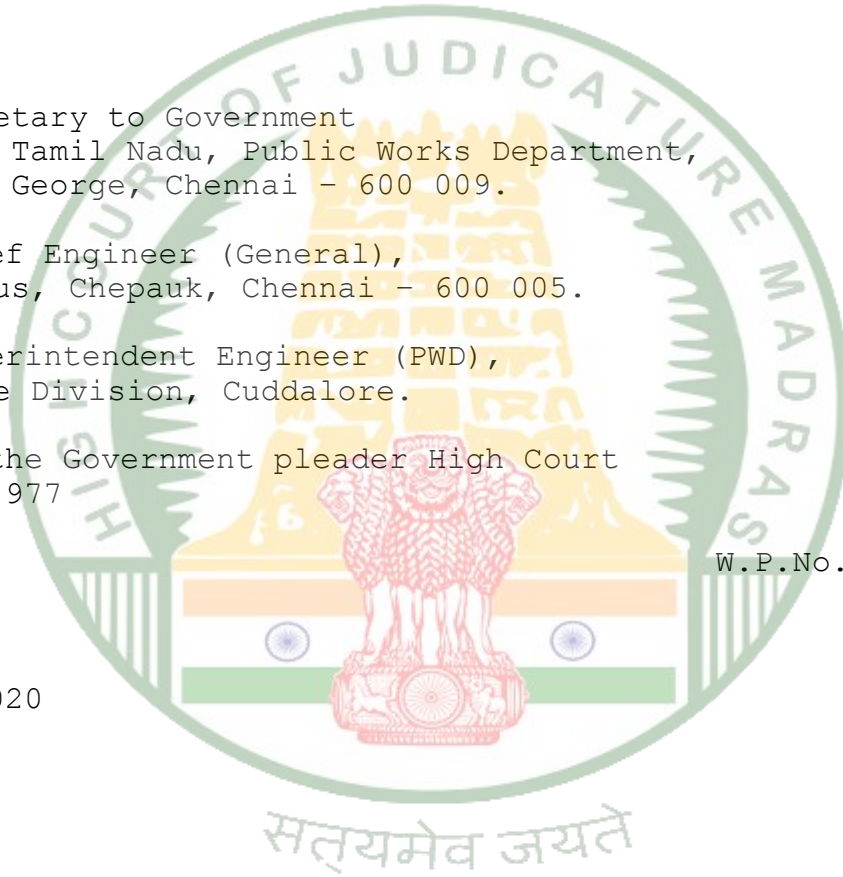
2.The Chief Engineer (General),
PWD Campus, Chepauk, Chennai - 600 005.

3.The Superintendent Engineer (PWD),
Cuddalore Division, Cuddalore.

+1 cc to the Government pleader High Court
Madras sr 977

W.P.No.232 of 2013

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