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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2021

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THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P. No.7329 of 2020

G.Krishnakumar

...Petitioner

Vs

1.The Government of Tamil Nadu
rep. By its Secretary to Government,
Environment and Forest Department,
Secretariat, Chennai - 600 009.

2.The Member Secretary,
Environment Management Agency of Tamil Nadu,
Saidapet, Chennai - 600 015.

...Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of mandamus directing the respondents to regularise the services of petitioner as driver from the date of initial appointment i.e., 01.12.2004 with all consequential service and monetary benefits.

For Petitioner : Mr.T.Dharani

For Respondents : Mr.L.S.M.Hasan Fazal
Additional Government Pleader - R1 & R2

O R D E R

The case of the petitioner is that he was appointed as a Driver in the respondent Department on 30.11.2004 through Employment Exchange. He has joined duty on 01.12.2004 and has been continuously working as driver without any interruption in service. The petitioner has been making periodical representation to the respondent Department for regularising his service in view he being continued in service without any break.

2. According to the petitioner, several similarly placed persons have approached this Court, both before Principal Bench as well as before Madurai Bench, and orders were passed directing the Department to regularise their services. The orders passed by the learned single Judges are also confirmed in appeals by the Division Bench of this Court. Against the orders



of the Division Bench, Special Leave Petitions were filed and the same were also rejected. Having left with no option, the Government also implemented the orders passed by this Court by passing G.O.Ms.No.03, Environment and Forest Department dated 11.01.2019 and G.O.Ms.No.48, Environment and Forest Department dated 27.05.2019.

3. Mr.T.Dharani, learned counsel appearing for the petitioner would submit that the issue of regularisation of services of employees like the petitioner is no more res integra and has been covered by numerous decisions of this Court, confirmed by the Hon'ble Supreme Court. The learned counsel, during the course of his submission would refer to first of the decisions passed by this Court as early as on 01.12.2016 in W.P. (MD) No.11106 of 2013 in the case of one Murugan, who was working as a Driver in the respondent department. A learned single Judge of this Court has allowed the Writ Petition filed by him and directed regularisation of the service from the date of completion of 10 years with all benefits. As against the order of the learned single Judge, a Writ Appeal was filed in W.A.(MD) No.686 of 2017 and the Division Bench dismissed the same vide order dated 12.07.2017. As against which, a Special Leave Petition was filed and the same was also dismissed by the Hon'ble Supreme Court on 04.09.2018.

4. The learned counsel would also refer to another order passed by this Court on 04.09.2017 in W.P.Nos.19456 to 19458 of 2013, wherein, after following the earlier orders passed by this Court, the Writ Petitions were allowed, as could be seen from the operative portion of the order reading as follows:

6. Upon notice, learned Additional Government Pleader entered appearance and submitted that the petitioners herein are not entitled to regularisation since they had not completed ten years of service as on 01.01.2006, in terms of G.O.Ms.No.22 of P & A R Department, dated 01.01.2006.

7. At this, the learned counsel appearing for the petitioners would submit that the said objection was also raised in respect of the other driver who was approached this Court earlier in W.P. (MD) No.11106 of 2013 and this Court in the said order dated 01.12.2016, had repulsed and over ruled such argument stating that the petitioner therein was entitled to regularisation on completion of ten years of service from the date of his initial appointment. The learned counsel for the petitioner would further submit the order passed by the learned Single Judge was confirmed in W.A.(MD) No.686 of 2017, vide order dated 12.07.2017.



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8. Since the petitions herein are squarely covered by the order passed by this Court as aforesaid, this Court cannot take a different view in the matter. Moreover, the objection raised by the learned counsel appearing for the respondents was considered and over ruled and therefore, the similar objection which is raised by the learned counsel for the respondents cannot not be entertained as being valid and substantive.

9. In view of the above submissions, this Court has no hesitation in allowing these writ petitions and the impugned order passed by the first respondent dated 09.05.2013, insofar as the two petitioners are concerned, are set aside and all the petitioners are directed to be regularised from the date of completion of ten years from the date of initial appointment with all attendant and consequential benefits. The direction shall be complied with by the first respondent within a period of two months from the date of receipt of a copy of this order.

10. With the above direction, the writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

5. Subsequently, another order was passed on 15.12.2016 in W.P.No.22740 of 2010 allowing similar claim. As against the said order, Writ Appeal in W.A.No.2796 of 2018 has been filed, which was dismissed by the Division Bench vide order dated 02.01.2019.

6. The learned counsel would also refer to two Government Orders, viz., G.O.Ms.No.03, Environment and Forest Department dated 11.01.2019 and G.O.Ms.No.48, Environment and Forest Department dated 27.05.2019, wherein orders of this Court have been implemented and the services of the petitioners therein were regularised.

7. The learned counsel finally would submit that even recently in a batch of Writ Appeals in W.A.Nos.391 of 2020 etc. batch, vide order dated 13.03.2020 a Division Bench of this Court disposed all the Writ Appeals as follows:

4. Thus, the correctness or otherwise of the directions for regularization have already been tested by a Division Bench and the order of the learned Single Judge has been confirmed. In the aforesaid three appeals, the State has preferred a Special Leave Petition before the Apex Court, being S.L.P.(C). No.39233 of 2019, in which notice has been issued on 29.11.2019.



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5. The learned Additional Advocate General, on instructions, very fairly states that the issue raised before the Apex Court is being pressed insofar as it relates to the date of applicability of the regularization inasmuch as all such employees are claiming regularization from the date of the initial appointment and other benefits, whereas they have been given the benefits from the date of regularization after being regularized.

6. His contention, therefore, is that the issue as to from which date will they get the benefit of regularization, is the issue engaging the attention of the Apex Court.

7. We have considered the submissions raised and we find no reason to differ from the view taken by the Division Bench while confirming the judgment of the learned Single Judge, issuing directions for regularization. But, insofar as the date from which such regularization will be given effect to being sub-judice before the Apex Court, we direct that the respondents/petitioners shall be regularized and so far as the date of regularization is concerned, the same will be governed by the outcome of the judgment of the Apex Court.

8. The learned Additional Advocate General, on instructions, states that the respondents/petitioners will be regularized and the regularization orders will be issued within four weeks from the date of production of a copy of this order. We record this and direct accordingly.

9. The Writ Appeals stand disposed of. No costs. Connected civil miscellaneous petitions are closed

8. In pursuance of the aforesaid directions of the Division Bench, recently, G.O.Ms.No.8 Environment and forest (FR2-II) Department dated 22.01.2021 was issued regularising the services of the petitioners in the aforesaid Writ Petitions. According to the learned counsel, since the services of all the daily wage drivers have been regularised after repeated orders/directions of this court, the present petitioner's case which is identical to the case of the petitioners in the above mentioned Writ Petitions/Writ Appeals may be allowed on similar lines.

9. Mr.L.S.M.Hasan Fazal, learned Additional Government Pleader appearing for the respondents has no quarrel with the decisions of this Court as mentioned above consistently granting the benefit of regularisation of the persons working in the respondent Department like the petitioner. The learned Additional Government Pleader would graciously admit that the



issue raised in the Writ Petition is also covered by the above decisions.

10. In view of the fact that this Court repeatedly rendered decisions granting relief to the similarly placed persons like the petitioner herein with respect to the same department and the same category of employees, the present Writ Petition is also allowed directing the respondents to regularise the services of the petitioner on par with the other similarly placed persons whose services have been regularised with all consequential and monetary benefits as given to other persons.

11. The respondents shall pass appropriate orders in this regard within a period of four (4) weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS-IX)

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Sub Assistant Registrar

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To

1.The Secretary to Government,
The Government of Tamil Nadu,
Environment and Forest Department,
Secretariat, Chennai - 600 009.

2.The Member Secretary,
Environment Management Agency of Tamil Nadu,
Saidapet, Chennai - 600 015.

+1cc to Mr.T.Dharani, Advocate SR.No.65874

+1cc to the Special Government Pleader SR.No.66333

W.P.No.7329 of 2020

SV(CO)
RVM(03/01/2022)