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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE S. VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE A.A. NAKKIRAN

W.A.No. 2515 of 2021 and
C.M.P. No 16381 of 2021

1. The State of Tamil Nadu
Rep. by its Secretary,
Animal Husbandry, Dairying and
Fisheries (AH6) Department,
Fort St. George, Chennai 600 009.
2. The Commissioner of Animal
Husbandry & Veterinary Services,
Chennai - 600 006.
3. The Regional Joint Director,
Animal Husbandry Department,
Dharmapuri

...Appellants

Vs.

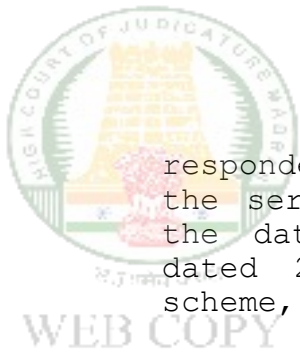
1. P. Mayakannan
2. M. Vedakumar
3. S. Venkatesaiah
4. A. Chandrasekaran
5. S. Chinnannan
6. The Principal Accountant General,
O/o the Accountant General,
Teynampet, Chennai - 600 018.

....Respondents

Prayer: Writ Appeal filed under Clause 15 of Letter Patent Act,
to set aside the order dated 22.10.2019 passed in W.P.No.
27959 of 2013 and allow this Writ Appeal.

Prayer in W.P.No.27959/2013:

Writ petition filed under Article 226 of the Constitution of India, for a Writ of Certiorarified Mandamus, calling for the records relating to the G.O.(Ms.)No.134, Animal Husbandry, Dairying & Fishing (AH.6) Department dated 12.11.2009 to quash the same in so far as paragraph-3(II) therein in so far as the petitioners herein are concerned and to consequently direct the



respondents to suitably modify the said clause by regularizing the services of the petitioners on completion of 5 years from the date of their initial appointment as per G.O.Ms.No.1527 dated 28.08.1985 and to extend the benefits of pensionable scheme, pension and other pensionary benefits thereto forthwith.

For Appellants : Mr.V. Sanjeev Kumar
Government Advocate.

For Respondents : Mr. L. Chandrakumar

J U D G M E N T

(Judgment of the Court was delivered by S.VAIDYANATHAN,J)

The Writ Appeal is filed against the order passed in W.P.No.27959 of 2013, dated 22.10.2019 in allowing the Writ Petition filed by the Respondents 1 to 5, in terms of the Judgment of the Division Bench of this Court in W.A.Nos.226 and 491 of 2004 dated 05.11.2013 and the order of this Court in W.P.Nos.10974 of 2009 and 25254 of 2008 dated 14.02.2018.

2. When the matter is taken up for hearing, it is represented by the learned Government Advocate submitted that the learned Single Judge in order dated 22.10.2019 has referred to the earlier Judgment of the Division Bench of this Court in W.A.Nos.226 to 491 of 2004 and also the order made in batch of Writ Petitions in W.P.Nos.10974 of 2009 and 25254 of 2004 dated 14.02.2018 and allowed the Writ Petition filed by the Respondents 1 to 5/Writ Petitioners. The relevant paragraphs of the order dated 22.10.2019 is extracted hereunder:

"5. The learned counsel for the petitioner placed reliance on the judgment of the Division Bench of this Court in Writ Appeal No.226 and 491 of 2004. In this case also the issue arises for regularizing the service of the person who have joined in the Animal Husbandry Department as casual workers. The learned Division Bench after going through the various other orders passed by this Court, directed that the petitioners are entitled to be regularized after five years from the date of their initial appointment. Similarly in a batch of writ petitions in WP.Nos.10974 of 2009 and 25254 of 2008 dated 14.02.2018, has observed as under:-

"10. According to the learned Special Government Pleader, the



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petitioners are not entitled for regularization from the date of their initial appointment, since their initial appointment was irregular and subsequently regularised by G.O.Ms.No.117, dated 28.08.2008. The substance of the objections as found in paragraph V of the counter affidavit is extracted below:- "V) It is submitted that the services of the petitioners whose appointment were irregular have been regularized with effect from 28.08.2008 as per G.O.Ms.No.117, Animal Husbandry, Dairying and Fisheries (AH-7) Department, dated 28.08.2008, following the guidelines issued in U.O.Note No.16076/S/95-9, Personnel and Administrative Reforms (S) Department, dated 05.02.1996 and there is an order in para No.4 of the above Government Order regarding sanctioning of annual increments only on completion of one year of service from the date of regularization, which will be the date of Government Order i.e. 28.08.2008. Hence, they are eligible to get next increment only on 01.07.2009. Therefore, necessary orders have been issued for cancelling the increments already sanctioned and recovery of increments paid to those sanctioned increments before 28.08.2008. Hence, there is no error in the order passed by the second respondent."

11. Therefore, learned Special Government Pleader would submit that the petitioners are not entitled to any relief as prayed for in the writ petitions. However, as regards the order passed by the learned Division Bench as aforementioned, the learned Special Government Pleader would submit that the issue raised in the writ appeals are identical as that of the issues raised in the present writ petitions. 12. In view of the submissions of the learned counsel as above, this Court is bound by the decision of the learned Division Bench as the Division Bench order dated



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05.11.2013, passed in W.A.Nos.226 and 491 of 2012, wherein, the operative portion of the learned Division Bench order is also extracted supra. Since the issues raised in these writ petitions are squarely covered by the orders passed by the learned Division Bench and also the learned counsel for the petitioners would submit that the Department has implemented the orders of the learned Division Bench in respect of those similarly placed persons, this Court does not see any justification for taking a different view in the matter. Moreover, the orders passed by the learned Division Bench is binding on this Court. Therefore, this Court has no hesitation in allowing the writ petitions as prayed for.

13. In the above circumstances, the impugned in G.O.No.117, Animal Husbandry and Fisheries Department dated 28.08.2008, is hereby set aside, insofar as it restricts regularization of service of the petitioners with effect from the date of issue of the Government Order. There shall be consequential direction to the respondents to grant regularisation to all the petitioners herein from the date of their original appointment i.e., 2000-01 with all monetary benefits like grant of annual increment except the arrears of pay etc. The consequential direction shall be complied with by the respondents, within a period of eight weeks from the date of receipt of a copy of this order."

The above judgment have extended the same benefits to the petitioners herein. In another judgment in WP.No.22168 dated 2009 dated 17.11.2016, once again this Court regularized the persons from the date of their initial appointment.



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6. It is the contention of the petitioners that the petitioners are similarly situated to those who were given benefits of G.O.(Ms.)No.173, Animal Husbandry, Dairying & Fishing (AH.6) Department dated 10.07.2013, wherein the Government has given the benefit of regularization after five years of completion of service and thus benefit is not deferred to the date of the order regularizing the workmen. Further perusal of the appointment order shows that all other petitioners sponsored from employment exchange has working as daily wagers.

7. In view of the above, the writ petitions are allowed, in terms of the Division Bench judgment of this Court in Writ Appeal No.226 and 491 of 2004 dated 05.11.2013 and the Single Judge order in WP.Nos.10974 of 2009 and 25254 of 2008 dated 14.02.2018, for the simple reason that the writ petitioners are identically situated to the petitioners in the said writ petitions. The respondents are directed to implement the order within a period of 12 weeks from the date of receipt of a copy of this order. No Costs. Consequently, the connected miscellaneous petitions are closed. "

3. It is further represented that after the orders of the Division Bench mentioned supra, directions imposed by this Court has already been complied with.

4. In such view of the matter, we find no reason to interfere with the order of the learned Single Judge and the Writ Appeal is liable to be dismissed.

5. Accordingly, this Writ Appeal is dismissed. No costs. Consequently, connected M.P. is closed.

s/d-
Assistant Registrar(CS VIII)

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Sub-Assistant Registrar



To

The Principal Accountant General,
O/o the Accountant General,
Teynampet, Chennai - 600 018.

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+1 CC to Mr.L.Chandrakumar, Advocate sr 50407.
+1 CC to The Government Advocate Sr 51268.

W.A.No. 2515 of 2021

PPA (CO)
SP (18/10/2021)