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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A.[MD]Nos.359 to 361 of 2019

P.Balasubramanian ... Appellant/Writ Petitioner in W.A.(MD).
No.359 of 2019

C.Murugesan ... Appellant/Writ Petitioner in W.A.(MD).
No.360 of 2019

R.Veeramani ... Appellant/Writ Petitioner in W.A.(MD).
No.361 of 2019

Vs.

1. The Government of Tamil Nadu,
Represented by Secretary to Government,
Home (Police) Department,
Chennai 600 009.

2. The Director General of Police,
Tamil Nadu, Chennai - 600 004.

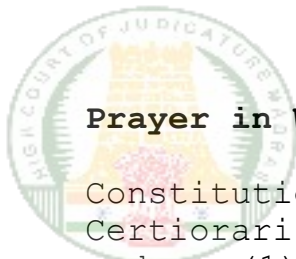
3. The Superintendent of Police,
Karur.

... Respondents/Respondents in all Writ Petitions

COMMON PRAYER: Writ Appeals filed under Clause 15 of the Letters Patent to set aside the order dated 06.03.2018 passed in W.P.(MD). Nos.6563 to 6565 of 2013 on the file of this Court.

Prayer in WP(MD). 6563/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue Writ of Certiorarified Mandamus calling for the records relating to the orders (1) G.O.Ms.No.653, Home (Police) Department, dated 7.8.2009 of the first Respondent (2) Proceedings No.12070/NGB.II (3) 2009 dated 7.10.2009 of the second Respondent and (3) D.O.No.641/2009 Na.ka.No.C 5/14680/09) dated 12.11.2009 of the third Respondent to quash the same and to issue consequential directions to the Respondents regularise the services of the petitioner herein from the date of his initial appointment (1.4.1993) in regular time scale of pay with consequential benefits all within a limited time and same as deemed fit



Prayer in WP(MD). 6564 and 6565/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue Writ of Certiorarified Mandamus calling for the records relating to the orders (1) Proceedings No.189938/NGB.6(1) 2010 dated 26.03.2012 of the second Respondent and (2) D.O.No.404/2012 Na.ka.No.C 5/8770/2012) dated 20.07.2012 of the third Respondent to quash the same and to issue consequential directions to the Respondents regularise the services of the petitioner herein from the date of his initial appointment (1.10.1996) in regular time scale of pay with consequential benefits all within a limited time and same as deemed fit

For Appellants : Mr. Porkodi Karnan
for M/s.Polax Legal Solutions
(in all Writ Petitions)
For Respondents : Mr.R.Baskaran,
Standing Counsel for Govt,
For R1 to R3.
(in all Writ Petitions)

COMMON JUDGMENT

[Judgment of the Court was made by **T.S.SIVAGNANAM, J.**]

We have heard Mr.Karnan, learned counsel for the appellants and Mr.R.Baskaran, learned Standing Counsel for the respondents.

2. These appeals by the Writ Petitioners are directed against the order dated 06.03.2018 in W.P.(MD).Nos. 6563 to 6565 of 2013. The appellants filed Writ Petitions challenging the G.O.Ms.No.653, Home (Police 15) Department, dated 07.08.2009 of the first respondent (2) Proceedings No.120710/NGB.II (3)/2009, dated 07.10.2009 of the second respondent and (3) D.O.No.641/2009, Na.Ka.No.C5/14680/09) dated 12.11.2009, the proceedings of the third respondent dated 12.11.2009, 20.07.2012, the proceedings of the second respondent dated 26.03.2012 and for a consequential direction to regularise the services from the date of initial appointment in regular time scale.

3. It is not in dispute that the appellants were appointed as Police Station cleaners on temporary basis on different dates and continue as such. The Government, taking note of the fact that there were several such Police Station cleaners, passed a Government Order in G.O.Ms.No.653, Home (Police 15) Department, dated 07.08.2009, directing the regularisation of those persons with effect from 01.08.2009. The first appellant has been regularised in terms of the said Government Order with effect from 01.08.2009, whereas the second and third appellants have been regularised with effect from 05.03.2012.

4. Though at the first blush, it appears to be discriminatory



on a closure reading, we find that the regularisation of the second and third appellants was under different Government Order in G.O.Ms.No.22, Administrative Reforms (F) Department, dated 28.02.2006. The learned Writ Court dismissed the Writ Petitions, after referring to the decision of the Hon'ble Supreme Court in the case of **State of Karnataka and others Vs. Umadevi (3) [2006 4 SCC 1]** and other decisions for the proposition that on a back door, the employee cannot claim regularisation as a matter of right. There can be no quarrel in the said legal principle, which legal position binds the appellants. That apart the appellants, but for the Government Order could not go into the regular establishment and secured time scale of pay. Having accepted the benefit of the Government Orders and become regular employees of the Government/Department, they cannot now turn around to challenge a portion of the Government order, in which their perception is unreasonable. Therefore, while agreeing with the learned Writ Court in denying the relief to the appellants, we do so for the reasons assigned by us in the preceding paragraphs.

5. Accordingly, these Writ Appeals stand dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

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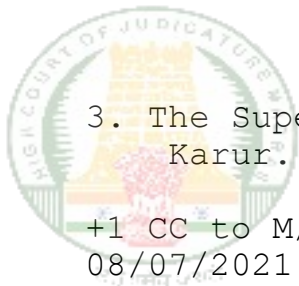
Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Secretary to Government,
State Government of India,
Home (Police) Department,
Chennai 600 009.
2. The Director General of Police,
Tamil Nadu, Chennai - 600 004.



3. The Superintendent of Police,
Karur.

+1 CC to M/s.POLAX LEGAL SOLUTIONS, Advocate (SR-21786[F] dated
08/07/2021)

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W.A.[MD]Nos.359 to 361 of 2019

06.07.2021

NA (CO)

LR (19.07.2021) 4P 5C