BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.04.2021

CORAM :

The Hon'ble Mr.JUSTICE T.S.SIVAGNANAM
AND
The Hon'ble Mrs.JUSTICE S.ANANTHI

W.A.(MD) No.373 of 2018
and
C.M.P(MD).No.2296 of 2018

1. The Secretary to Government,
   Commercial Tax and Registration Department,
   Fort St.George, Chennai.

2. The Inspector General of Registration,
   No.100, Santhome High Road,
   Chennai - 600 028.

3. The District Registrar,
   Registration Department,
   Collectorate, Karur.

... Appellants/Respondents

Vs

A.Tamilarasan

... Respondent/Petitioner

PRAYER: Appeal under Clause 15 of the Letters Patent, against the order dated 16.12.2016, passed in W.P.(MD) No.7473 of 2010.

Prayer in WP(MD). 7473 of 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARIFIED MANDAMUS calling for the records relating to the impugned order passed by the 2nd respondent in his proceeding Mu.Mu.No. 9537/PA1-2010 dated 04.03.2010 and quash the same as illegal and consequently directing the respondents to regularize and appoint the petitioner in the post of Full Time Masalgi with regular time scale of pay with all monitory and other attendant benefits including seniority and continuity of service from the date of original appointment of the petitioner as a part time Masalgi.

For Appellants	:	Mr.Sricharan Rangarajan, Additional Advocate General, assisted by Mr.K.Sathiyasingh, Additional Government Pleader
For Respondent	:	Mr.B.Saravanan

JUDGMENT

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

Heard Mr.Sricharan Rangarajan, learned Additional Advocate General, assisted by Mr.K.Sathiyasingh, learned Additional Government Pleader, appearing for the appellants and also Mr.B.Saravanan, learned Counsel appearing for the respondent-writ petitioner.

2. The Government has come forward to file this Writ Appeal, being aggrieved by the direction issued in the writ petition by directing the respondent-writ petitioner to be brought under regular service from 05.07.2012 and from 28.04.1989 to 05.07.2012, the services as a temporary masalgi shall be taken into account for the purpose of continuity of service and accordingly, the service benefit should be calculated. The Court further held that the respondent-writ petitioner is not entitled to get any salary difference by virtue of the regularization of service from 28.04.1989 to 05.07.2012.

3. In our considered view, such a direction could not have been issued because the respondent-writ petitioner was regularized solely based upon the policy decision taken by the Government in G.O.Ms.No.22, Personnel and Administrative Reforms (F) Department, dated 28.02.2006. The Government Order was based upon the announcement made by the then Hon'ble Chief Minister on 28.02.2006, by which, the Government took a decision that the services of the daily wage employees working in all the Government departments who have rendered ten years as on 01.01.2006 be regularized by appointing them in the time scale of pay of the post in accordance with the service conditions prescribed for the post concerned subject to the condition that they are otherwise qualified to the post.

4. The said Government Order was applied to the case of the respondent and his services have been regularized with effect from 05.07.2012. If such is the case, the respondent-writ petitioner cannot claim any benefits anterior to the said date of regularization, namely 05.07.2012, which the respondent-writ

petitioner had accepted without any demur and continued to serve the department. As already observed, the decision to regularize temporary employees who were completed ten years of service working in various Government departments, is the policy decision taken by the Government and therefore, the Court cannot add conditions which are not prescribed in the Government order. More particularly, when the Government order was passed to alleviate the sufferings of the temporary staff who were working for a period of ten years. Therefore, the direction issued in the writ petition called for interference.

5. Accordingly, the Writ Appeal is allowed and the order passed in the writ petition is set aside. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2021

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,
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   Fort St.George, Chennai.

2. The Inspector General of Registration,
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3. The District Registrar,
   Registration Department,
   Collectorate, Karur.

+1 CC to M/s.B.SARAVANAN, Advocate (SR-15466[F] dated 08/04/2021)
+1 CC to M/s.SPL GP (SR-15506[F] dated 08/04/2021)

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07.04.2021

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