



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.10.2021

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) .No.1417 of 2017

T.Bharathkumar

... Petitioner

.vs.

1.The Principal Secretary to Government,
Public Works Department,
Secretariat, Chennai-600 009.

2.The Chief Engineer (General) and cum
Engineer in Chief,
Water Resource Organisation,
Public Works Department,
Chepauk, Chennai-600 005.

3.The Chief Engineer (Regional)
Water Resource Organisation,
Public Works Department, Madurai. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to call for the records of the first respondent ie., the Principal Secretary to Government, Public Works Department, Chennai, relating to Government Letter No.10204/C2/2016-4, dated 19.09.2016, and to quash the same and consequently, to direct the first respondent to regularize the service of the petitioner on par with the 222 persons got their services regularized in G.O.Ms.No.202 Public Works Department, dated 01.08.2012, who have completed ten years of service subsequent to the petitioner, within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.A.K.Manikkam

Government Advocate

O R D E R

This Writ Petition is filed for issuance of Writ of Certiorarified Mandamus, to quash the Government Letter No.10204/C2/2016-4, dated 19.09.2016, issued by the first respondent and consequently, to direct the first respondent to regularize the service of the petitioner on par with 222 persons who got their services regularized vide G.O.Ms.No.202 Public Works Department, dated 01.08.2012, after completing ten years of service subsequent to the petitioner.



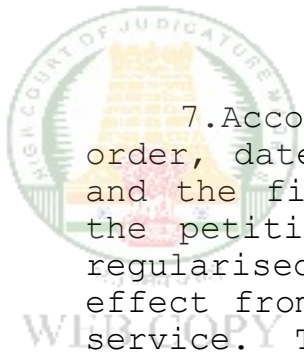
2.Heard Mr.S.Visvalingam, learned Counsel appearing for the petitioner and Mr.A.K.Manikkam learned Government Advocate appearing for the respondents.

3.The petitioner states that he was serving in the Water Resources Organization of the Public Works Department as Nominal Muster Roll employee from 01.05.1997 to 31.10.2010. It is admitted that the Government had framed a policy to regularize the service of Nominal Muster Roll employees on completion of ten years of service. Vide G.O.(Perm)No.134, Public Works (C2) Department, dated 07.05.2010, the service of 746 Nominal Muster Roll employees were regularised with effect from the date of completion of ten years of their service.

4.It is stated that the Government had regularized several batches of Nominal Muster Roll employees by various Government orders. It is the case of the petitioner that he has completed ten years of service on 30.04.2007 and that therefore, his service should be regularized along with similarly placed persons whose services were regularized on completion of ten years of service. In this regard, the petitioner has sent representation to the respondents to regularise the service of the petitioner.

5.By the impugned order passed by the first respondent, it is stated that the representation of the petitioner for regularization cannot be considered in the case of the petitioner, as he has not been recruited through Employment Exchange and that the petitioner had not completed ten years of service before 01.01.2006. The impugned order is, therefore, based on the assumption that an employee is entitled to regularization only if he completes ten years of service before the issuance of G.O.(Ms).No.22, Personnel and Administrative Reforms Department, dated 28.02.2006, which was given retrospective effect from 01.01.2006. It is now demonstrated before this Court that several batches of employees, who have completed ten years of service after 2006, have been regularized. It is also admitted before this Court that the original order of the Government regularizing a few hundreds of employees indicate that the Nominal Muster Roll employees were not selected through Employment Exchange.

6.The issue on hand has already been settled by this Court in W.P.No.16107 of 2012 and the same was also confirmed by the Honourable Supreme Court in S.L.P.(CC)No.17385 of 2016. A Review Petition filed thereafter, in R.P.(C)No.2442 of 2017 was also dismissed on 30.09.2016. Since several others, who were similarly placed were given the benefit of regularization irrespective of the date of completion of ten years, this Court has no hesitation to allow this Writ Petition in tune with the precedents submitted by the petitioner before this Court.



7. Accordingly, this Writ Petition is allowed. The impugned order, dated 19.09.2016, passed by the first respondent, is quashed and the first respondent is directed to regularize the service of the petitioner on par with other persons, who got their service regularised earlier. The regularization of service shall be with effect from the date on which the petitioner completes ten years of service. The respondents shall pass appropriate orders and disburse the monetary benefits to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

cmr/tmg

To

1.The Principal Secretary to Government,
Public Works Department,
Secretariat, Chennai-600 009.

2.The Chief Engineer (General) and cum
Engineer in Chief,
Water Resource Organisation,
Public Works Department,
Chepauk, Chennai-600 005.

3.The Chief Engineer (Regional)
Water Resource Organisation,
Public Works Department, Madurai.

+1 CC to M/s.S.VISVALINGAM, Advocate (SR-32631[F] dated 26/10/2021)

Order made in
W.P. (MD) No.1417 of 2017
25.10.2021

NSN(CO)
GC/PM(02.11.2021) 3P 5C