

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2022

CORAM

THE HONOURABLE MR. JUSTICE PARESH UPADHYAY
AND
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.A.NO.1588 OF 2022
AND C.M.P. NO.10550 OF 2022

1. The Government of Tamil Nadu,
rep. By its Principal Secretary,
Environment and Forest Department,
Fort St.George, Chennai - 9.
2. The Principal Chief Conservator of Forests,
Head of Forest Force,
No.1, Geenis Road, Panagal Building,
Saidapet, Chennai - 15.
3. The District Forest Officer,
Dharmapuri Forest Division,
Harur, Dharmapuri District.

.. Appellants

Vs.

G.Rajendran

.. Respondent

Appeal filed under Clause 15 of the Letters Patent against the order dated 10.12.2021 made in W.P. No.4085 of 2021.

Prayer in W.P. No.4085 of 2021:

Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus call for the records of the 2nd respondent order made in C.No.S2 /18396 /2015 dated 13/11/2019 and quash the same consequently directing the respondents to regularize the petitioner service as Driver in the regular post from the date of completion of ten years i.e. 01/07/2006 with all consequential service and monetary benefits.

For Appellants

.. Mr.R.Neelakandan,
Addl. Advocate General
assisted by
Ms.S.Mythreye Chandru,
Spl. Govt. Pleader

For Respondent

.. Mr.S.Ponmozhi

JUDGMENT

(Delivered by PARESH UPADHYAY, J.)

1. Challenge in this appeal is made to the order dated 10.12.2021 recorded on W.P.No.4085 of 2021. This appeal is by the respondents / State Authorities.

2. Learned Additional Advocate General has submitted that, the writ petitioner had not put in ten years of service as on 01.01.2006 and therefore no direction could have been issued to treat him at par with other persons whom the writ petitioner referred to. It is submitted that, though the writ petitioner was engaged from 01.04.1995, on 01.01.2006 he had not completed ten years of service, if the period for which he was engaged by the competent authority is kept in view. It is submitted that, for this reason the direction issued by learned Single Judge is unsustainable and this appeal be entertained.

3. On the other hand, learned advocate for the respondent/ writ petitioner has submitted that, the writ petitioner was initially engaged from 01.04.1995 and it was not for the writ petitioner to decide when the grassroot officer will engage him or not and according to him, the writ petitioner had not taken any break from the employment. It is submitted that, the discretion exercised by learned Single Judge is just and proper and therefore this appeal be dismissed.

4. Having heard the learned advocates for the respective parties and having considered the material on record, this Court finds that, it is not in dispute that, the writ petitioner was engaged on temporary basis from 01.04.1995. The cut-off date for the purpose of regularisation of services is indicated to be 01.01.2006. The writ petitioner has already put in more than ten years of service by that time. A poor daily wage can not be expected to have record with him, when he was engaged, the period for which he was not engaged and what is his explanation. The discretion left with the grassroot officers can not be permitted to be taken advantage of like this by the State Authorities after about a decade. In the peculiar facts of the case, when learned Single Judge has exercised discretion in

favour of the writ petitioner, we do not consider it to be an error, which may call for any interference in this intra-court appeal. This appeal is therefore needs to be dismissed.

5. For the above reason, this appeal is dismissed. No costs. Connected miscellaneous petition would not survive.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary,
The Government of Tamil Nadu,
Environment and Forest Department,
Fort St.George, Chennai - 9.
2. The Principal Chief Conservator of Forests,
Head of Forest Force,
No.1, Geenis Road, Panagal Building,
Saidapet, Chennai - 15.
3. The District Forest Officer,
Dharmapuri Forest Division,
Harur, Dharmapuri District.

+2ccs to M/s.S.Ponmozhi, Advocate, Sr.No.41715
+1cc to Government Pleader, Sr.No.42551

W.A.No.1588 of 2022

PMK(CO)
PM/14/07/2022