



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 20.12.2021

Pronounced on : 21.02.2022

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CORAM:

THE HONOURABLE MRS.JUSTICE S. SRIMATHY

W.P(MD) Nos. 2038 to 2042 of 2013 and
WP(MD).No.11255 of 2014 and
M.P(MD).Nos.1 and 2 of 2013 in
W.P(MD) Nos. 2038 to 2042 of 2013 and
M.P(MD).No.1 of 2014 in WP(MD).No.11255 of 2014

The Administrative Officer,
District Livestock Farm,
Abishekapatti,
Tirunelveli District :Petitioner in all W.Ps.

..vs..

S. Pitchaiah .. 1st Respondents in W.P(MD).No.2038 of 2013
S. Sivan .. 1st Respondents in W.P(MD).No.2039 of 2013
S. Muthukutti .. 1st Respondents in W.P(MD).No.2040 of 2013
S. Shanmugam .. 1st Respondents in W.P(MD).No.2041 of 2013
A.Asaitambi .. 1st Respondents in W.P(MD).No.2042 of 2013
C. Subbiah .. 1st Respondent in W.P(MD).No.11255 of 2014

2.The Presiding Officer,
Labour Court,
Thirunelveli .. 2nd respondent in all W.P.s

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of to issue a Writ of Certiorari to call for the records pertaining to the order passed by the second respondent in C.P.Nos.43, 45, 46, 44, 42 and 48 of 2008, dated 25.02.2011 and quash the same.

For Petitioner in all W.Ps. : Mr. R. Ragavendran
Government Advocate (Civil Side)

<https://hcservices.courts.gov.in/hcservices> For Respondent in all W.Ps. : Mr. R. Thanagasamy



COMMON ORDER

These Writ Petitions have been filed quash the order passed by the second respondent in C.P.Nos.43, 45 , 46, 44, 42 and 48 of 2008, dated 25.02.2011 respectively.

2. The petitioner herein is engaged in the activities of research with regard to the Veterinary Science. The Farm is maintained by the petitioner for the purpose of Research and Development and there was regular work forces, who were working. However, to overcome the necessity which, arises from time-to-time persons like that of the 1st respondents would be engaged wherever necessity arises. The first respondents were engaged by the petitioner. The contention of the government is that they were not referred through employment exchange and they cannot claim any right whatsoever. Industrial Dispute was raised by group of persons in I.D.No.143 of 1987. The Labour Court without considering the fact has come to the conclusion that the first respondent and the other workmen who raised the Industrial Dispute are entitled to receive the time scale of pay on completion of five years of service. The contention of the government that the said industrial dispute was bereft of particulars with regard to the actual date of joining. The first respondent and other similarly placed persons were drawn the pay fixed by the District Collector as daily rated employees. The award in said Industrial Dispute was passed on 31.01.1992. The Industrial Dispute granted monetary benefits to the first respondent. However, the first respondent have not filed any claim petition within the stipulated time, after expiry of 16 years have filed claim petitions to direct the petitioner to pay a sum of Rs.1,83,791/-, Rs.35,846/-, Rs.1,47,540/-, Rs.1,49,,789/-, Rs.1,53,443/- and Rs.1,44,501/- respectively. The first respondent has also prayed to execute the same under the Revenue Recovery Act. However, on receipt of the order, vide communication dated 08.04.2011 in Na. Ka. No. 2861 / E1 / 11, the order was communicated to the Commissioner of Animal Husbandry and Veterinary Services Department, Chennai -6 and the same is pending consideration.

3. The first respondent in all Writ Petitions have not filed any counter, however relied on the petition filed before the Labour Court.

4. Heard the Learned Government Advocate for the petitioner and Learned Advocate Thangasamy for the first respondent in all Writ Petitions and perused the materials on record.

5. Pending these Writ Petitions, the Department of Animal Husbandry and Veterinary Science has considered the entire case and the Principal Secretary to the Government vide Letter No.2225/AH6 (1)/2017 -13 of Animal Husbandry, Dairying and Fisheries (AH6) Services, Chennai has sent a communication to the Director of



Animal Husbandry and Veterinary Services and the same is extracted hereunder:

"I am directed to invite your attention to the reference second cited wherein you have requested the Government to sanction a sum of Rs.45.46 lakh towards retrospective monetary benefits for 46 daily wage employees, who were later absorbed into regular establishment as Animal Husbandry Assistants, in District Livestock Farsm, Abhisekapatti, Tirunelveli District.

2. In this connection I am directed to state that, in general, for retrospective regularization, only prospective benefits are given. However, in G.O. Ms. No.183, Animal Husbandry, Dairying and Fisheries Department, dated 18.07.2013 orders were issued sanctioning a sum of Rs.21.48 lakh as retrospective monetary benefits to the said 46 Animal Husbandry Assistants for the period commencing from their date of completion of 5 years as daily wages employees to 31.12.1991, as a special case.

3. I am therefore, directed to inform that as sanction of further monetary benefits to 46 daily wage employees may open floodgate to similar 800 requests, the above proposal is not accepted by the Government."

6. The case of the first respondent in all Writ petitions is that since they have been working in the Animal Husbandry and Veterinary Science for more than five years, the second respondent ought to have been regularized, taking the cases of 800 such employees. The Government has issued government order in G.O.Ms.No.116, Animal Husbandry and Fisheries (AH6) Department dated 07.05.1997, wherein under clause (6) it is stated that,

6. The Government accordingly sanction 826 posts of Animal Husbandry Assistants in the scale of pay of Rs.775-12-835-15-1030 on temporary basis from the date of issue of this order till 31.03.1998 to enable the Director of Animal Husbandry to bring the 825 casual labourers mentioned in para 5 into regular establishment and post them as Animal Husbandry Assistants.

7. The said casual Labourers were regularized from the date of the G.O. i.e. from 07.05.1997. Now, the question remains whether the regularization can be given retrospective effect or any regularization shall be given only prospective effect. This issue was considered in a Full Bench Judgment reported in **2013 (6) CTC 593 (FB) (S. Dhanasekaran and 24 others Vs. The Government of Tamil Nadu, rep. By its Secretary, Department of Municipal Administration and Water Supply, Fort. St. George, Chennai and others)**, wherein it has been specifically held in para 28 (iii), any regularization can



be given with effect from the date of regularization and not from the date of original appointment.

28) ...

(iii) Those Sanitary Workers, who were appointed as G.O.Ms.Nos.101, Municipal Administration and Water Supply Department, dated 30.04.1997 or absorbed as per G.O.Ms.No.71, Municipal Administration and Water Supply Department, dated 05.05.1998, are all governed by G.O.Ms.No.21, Municipal Administration and Water Supply Department, dated 23.02.2006, in respect of their regularization in service and **such regularization shall take effect only from 23.02.006 and not from the date on which they had completed three years of service from the date of their initial entry into service.**

Therefore, this Court is of the considered opinion that the regularization granted from the date of the G.O is valid. The respondents are not entitled to any benefits retrospectively and they are entitled to prospectively only.

8. The respondents submitted that some of the employees were given retrospective effect. But the petitioner submitted that the Government has incurred Rs.21.48 lakh as expenditure and it is not viable to grant any retrospectively. It is granted they all regularized employee from all departments would come forward to grant the benefits retrospectively. Since the issue is settled through the judgment of Hon'ble Full Bench, the respondents are not entitled to claim benefits retrospectively. If all the 826 employees were granted retrospective effect there will be a huge financial implication to the Government. Moreover, it would amount to opening the Flood Gate. As rightly pointed out by the Government Advocate, the retrospective monetary benefits would affect the government exchequer. Therefore, this Court is inclined to set aside the claim petitions as far as the retrospective effect is concerned. Therefore, the impugned order granting the benefits retrospectively is set aside.

9. Accordingly, the Writ Petitions are allowed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)



To

The Presiding Officer,
Labour Court,
Thirunelveli.

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+1 CC to M/s.SPL GP (SR-7757[F] dated 22/02/2022)

Pre Delivery Order made in
W.P(MD) Nos. 2038 to 2042 of 2013 and
WP(MD).No.11255 of 2014 and
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W.P(MD) Nos. 2038 to 2042 of 2013 and
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21.02.2022

RD(08.03.2022) 5P 3C