



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.02.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.3339 of 2022

Sathyaraj

... Petitioner

-vs-

1.The Government of Tamil Nadu,
Rep., by its Secretary,
Excise Department,
Secretariat, Chennai-600 009.

2.The Senior Regional Manager,
Tamilnadu State Marketing Corporation Limited (TASMAC),
Anna Nagar, Madurai-625 020.

3.The District Manager,
Tamilnadu State Marketing Corporation Limited (TASMAC),
Nagercoil, Kanyakumari District. ... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents to permit the petitioner to work upto the age of 60 years as per the G.O.(Ms) No.29 Personnel and Administrative Reforms (S) Department dated 25.02.2021.

For Petitioner : Mr.S.Sivakumar

For R1 : Mr.A.K.Manikkam,
Special Government Pleader

For RR2 & 3 : Mr.B.Jameel Arasu,
Standing Counsel

O R D E R

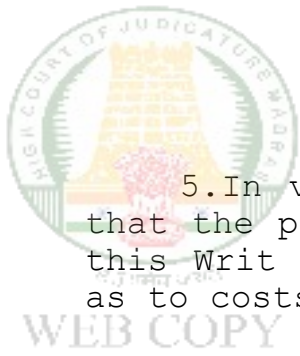
The relief sought for in the present writ petition is to direct the respondents to permit the petitioner to work upto 60 years of age as per G.O.Ms.No.29, Personnel and Administrative Reforms (S) Department, dated 25.02.2021.

2.Admittedly, the petitioner was appointed as part-time/temporary employee in TASMAL. When the petitioner is not a regular employee and engaged as part-time/temporary employee, the Government Service Rules applicable cannot be applied, unless the same is extended by the Government specifically. Regarding the retirement age, which is available in the Service Rules applicable to the regular Government employees, the part-time/temporary employees cannot claim the said benefit. However, extension of service or otherwise is to be decided by the competent authority on completion of a particular period of service or otherwise.

3.The learned counsel for the petitioner states that the petitioner was recruited through Employment Exchange.

4.However, those factors may not have any implication in respect of the continuance of the petitioner in service beyond the age of 58 years. The issue raised in this regard, was already considered by this Court in W.P(MD)No.6025 of 2021 and this Court passed an order on 18.03.2021 dismissing the writ petition. The relevant portion of the order is extracted hereunder:-

"2.The petitioner herein, who was provisionally engaged as a Bar Attendar on temporary basis and on consolidated pay, placing reliance on G.O.(MS) No.51, Personal and Administrative Reforms (S) Department, dated 07.05.2020, seeks for service upto the age of 59 years. Since the petitioner has crossed the age of 58 years, the respondents claimed to relieve him at the age of 58 years. The said G.O.(MS) No.51, would not be applicable to the contract/temporary employee, which proposition has already been considered and held in favour of the respondent corporation in case of Viswanathan and others Vs The Chief Secretary to Government, State of Tamil Nadu and others passed in W.P(MD) No.7657 and 7681 of 2020, dated 28.08.2020. Since there are no material to show that the petitioner herein was a permanent employee of the Corporation, the benefit of G.O.Ms.No.51 may not be applicable to the petitioner herein and as such, the action on the part of the respondents in refusing to continue the petitioner's service after the age of 58 years, cannot be found fault with."



5. In view of the above position, this Court is of the opinion that the petitioner is not entitled for any relief and accordingly, this Writ Petition is dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (AD I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1. The Secretary to Government,
The State of Tamil Nadu,
Excise Department,
Secretariat, Chennai-600 009.

2. The Senior Regional Manager,
Tamilnadu State Marketing Corporation Limited (TASMAC),
Anna Nagar, Madurai-625 020.

3. The District Manager,
Tamilnadu State Marketing Corporation Limited (TASMAC),
Nagercoil, Kanyakumari District.

+1 CC to M/s.S.SIVAKUMAR, Advocate (SR-8191[F] dated 23/02/2022)

+1 CC to M/s.SPL GP (SR-8087[F] dated 23/02/2022)

W.P.(MD) No.3339 of 2022
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MGJ(08.03.2022) 3P 6C