



W.P.No.12586 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2023

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.12586 of 2016
and W.M.P.Nos.10868 & 10869 of 2016

B. Syed Jaffar (Deceased)

2.J. Fathima Bee

... Petitioners

*[P2 substituted as LR of deceased sole petitioner vide order dated 02.01.2023
made in WMP.No.25193/2022 in WP.No.12586/2016 by MSRJJ]*

Vs.

1.The Commissioner,
Tiruvallur Municipality,
Tiruvallur – 602 001.

2.The Commissioner of Municipal Administration,
Chepauk, Chennai – 5.

3.The Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat, Chennai – 9.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the first respondent issued in Na.Ka.646/2015/C1 dated 08.03.2016 (served on the petitioner on 23.03.2016) and quash the same and consequently direct the respondent to



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regularize the services of the petitioner from 25.07.2001 in accordance with the orders in G.O.(Ms).No.125 MAWS Department dated 27.05.1999 and also to count half of the temporary service period in accordance with the orders by the Government.

For Petitioners : Mr.T. Ranganathan

For Respondents : Mr.P. Srinivas [R1]

Mr.M. Shajahan,
Special Government Pleader [R2 & R3]

ORDER

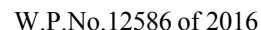
The petitioner's late husband had claimed that he was taken in as a NMR by the first respondent herein, in the month of April 1995 and when he was denied work with effect from 01.06.1996, he had raised an Industrial Dispute before the I Additional Labour Court, Chennai in I.D.No.74 of 1997 and by an award dated 12.07.1999, it was held that the petitioner's husband was in continuous service for 240 days in one calendar year and thereby, directed for reinstatement with continuity of service but without back wages. In this background, the petitioner's husband was reinstated into service on 30.09.1999 and his services were brought under regular time scale of pay with effect from 08.06.2006. When the late employee had sought for regularization on completion of



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two years of service, his request was rejected through the impugned order dated 08.03.2016, without assigning any reasons with regard to his claim. Such a non-speaking order cannot be sustained, when the late employee had made a specific claim with regard to his entitlement.

2. It is also seen that earlier, the first respondent had already sent a proposal to the Commissioner of Municipal Administration in Na.Ka.No.6154/C1/2002 dated 16.10.2002, proposing to appoint the late employee as a Revenue Assistant in the vacancy that arose owing to the death of one Vasudevan on 28.09.2002. No reference has been made to such a proposal in the impugned order. It is pertinent to mention here that, when the late employee's request for regularization was not considered, he had earlier approached this Court in WP.No.34116 of 2012 and by an order dated 24.07.2014, it was observed that in case, the late employee had completed 480 days of service, within a period of 24 calendar months, he would be entitled for regularization, atleast after two years. Though, the impugned order makes a reference to the order passed by this Court in WP.No.34116 of 2012, the observations made by this Court has been totally disregarded. Such order is deemed to be a non-speaking order and



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4. Accordingly, the Writ Petition stands partly allowed. No costs.

13.02.2023

Internet: Yes/No

Index: Yes/No

Neutral Citation: Yes/No

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To

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- 3.The Secretary to Government,
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M.S.RAMESH,J.

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