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W.P.No.1770 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

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1.S.Janakiraman
2.S.Manavalan
3.D.Umapathy
4.Naguram
5.V.Guruchandran
6.S.Nesamani
7.R.Venkatesan

... Petitioners

..Vs..

- 1.Government of Tamil Nadu,
Rep.by its Secretary to Government
Environment and Forest Department,
Fort St.George,
Chennai – 600 009.
2. The Principal Chief Conservator of Forest,
Panagal Maaligai, Saidapet,
Chennai –600 015.
3. The Conservator of Forest,
Chennai Circle, Chennai – 600 006.

.. Respondents

Prayer:– Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the first respondent in Letter (D) No.137, Environment and Forest (FR-2) Department dated 14.05.2010,



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quash the same and consequently directing the respondents to allow the petitioners to discharge their duties so as to enable them to get their services regularised on completion of 10 years in the light of the order dated 23.12.2008 passed in W.P.No.23080 of 2008.

For Petitioner : Mr.S.Mani

For R1 to R3 : Mr.Dr.T.Seeivasan,
Special Government Pleader

ORDER

This Writ Petition has been filed praying to call for the records pertaining to the order passed by the first respondent in letter (D) No.137, Environment and Forests (FR-2) Department dated 14.05.2010, set aside the same and consequently directing the respondents to allow the petitioners to discharge their duties so as to enable them to get their services regularized on completion of ten years in the light of the order dated 23.12.2008 passed in W.P.No.23080 of 2008.

2. As per the affidavit, the petitioners joined duty in the Forest Department on different years from 1992 to 1996, while two of the petitioners worked more than 10 years and all others worked less than ten years.



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3. The service matrix of the petitioners 1 to 7 are as under:-

Sl.No.	Name	Date of initial appointment
1.	S.Janakiraman	April 1992
2.	S.Manavalan	April 1993
3.	D.Umapathy	April 1996
4.	Naguram	April 1995
5.	V.Gurchandran	1992-93 and from 1995 onwards
6.	S.Nesamani	April 1996
7.	R.Venkatesan	April 1993

They are seeking the relief of regularization of their services and also set aside the impugned order passed by the first respondent wherein, the representation made by the petitioners were rejected.

4. As per the counter, the official respondents have stated that the petitioners herein were not engaged in any work after 31.03.2004 for want of casual work and funds and the petitioners were not appointed as watchman and they never utilized as watchman. They never signed in the attendance Register as that of regular watchman as claimed by the petitioners.

5. From the counter, I find that the Forest Protection Squad, Chennai was formed by shifting the Special Mobile Party, Dharmapuri to Chennai as per G.O.Ms.No.256, Forest and Fisheries Department dated 19.03.1978 and then shifted to a building in Raj Bhavan Complex. The seized material in the forest offences were also stored in the same office



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building. When this old building was damaged badly, the Forest Protection Squad Office was shifted to DMS Campus and then the seizures were transported and stored at Southern Forest Research Institute Building at Kolapakkam. Later, the seizure were transported to Thirupattur in November 2001 and stored at the Government Sandalwood Sale Department for safe custody. As regards, the Dogs Squad, it was formed on 27.12.1996 as per G.O.Ms.No.110, Environment and Forests Department dated 30.03.1993 and the sixth and seventh respondents were engaged for handling the dogs on muster roll on daily wages. This dogs squad was transferred to Salem Division on 02.07.2002. As there is no casual work of handling of dogs, the sixth and seventh respondents have not been engaged on daily wages.

6. The records reveals that the petitioners were engaged for specific casual work on daily wage basis, they were stopped, when there is no work for which they were engaged. There is no provision in the rule to provide regular employment for the persons engaged on daily wages.

7. After hearing the rival submissions and after going through the earlier order passed by this Court, I find that the petitioner along with 6 others filed W.P.No.39708 of 2004 seeking direction to allow the



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petitioners to discharge their duties continuously and to regularize their services from the date of their respective initial appointment and to absorb them in regular establishment in Forest Department with consequential benefits.

8. The above said Writ Petition was disposed of on 09.11.2009 whereby, S.Manavalan and six others have directed the Government to consider the representation of the petitioners dated 02.05.2004 and dispose of the same within a period of 12 weeks from the date of receipt of a copy of this order.

9. In compliance of the orders of the Court, the first respondent examined the representation of the petitioner dated 02.05.2004 and passed speaking orders in Government letter (D) No.137, Environment and Forests Department dated 14.05.2010. The impugned order was passed on merits and existing rules and orders.

10. The learned Special Government Pleader contended that the impugned order was passed wherein the official respondent after applying his mind as to the service records and factual on the ground come to the conclusion that the petitioners did not work continuously and there was a regular break in service and therefore they are not entitled for benefits conferred upon G.O.Ms.No.52, dated 14.01.1997.



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11. The sum and substance of G.O.Ms.No.22, Personnel and Administrative Reforms Department dated 28.02.2006, persons who have rendered ten years of service as on 01.01.2006 be regularized by appointing them in the time scale of pay of the post in accordance with the service conditions prescribed for the post concerned.

12. In the instant case, after 31.03.2004, they were not engaged for any work in the Forest Department and the G.O.Ms.No.22, Personnel and Administrative Reforms Department dated 28.02.2006 is also not applicable to this case. The petitioners were informed that the representation dated 02.05.2004 was not feasible of compliance and accordingly their request was rejected.

13. The position as stated by the official respondents is that the petitioners are not engaged after 31.03.2004 and they are not in service as on 01.01.2006 and hence the G.O.Ms.No.22 dated 28.02.2006 is not applicable. Therefore, the G.O.Ms.No.22 is applicable only to the person who have worked as on 01.01.2006.

14. The learned counsel appearing for the petitioners has relied upon the judgment of this Court in W.P.No.23080 of 2008 dated 23.12.2008 wherein a sweeper who was working on daily wages in a school for more than 30 years, was regularized.



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15.The case of the petitioners was not working and also the petitioners were not sponsored through the Employment Exchange and are not even engaged after 31.03.2004 and therefore, from the factual matrix of the case in hand is distinguishable from W.P.No.23080 of 2008 and the other judgment relied on by the learned counsel for the petitioners in W.P.No.11815 of 2007 dated 21.07.2011 is not applicable on a very factual matrix that this is about muster roll persons.

16. After going through the counter affidavit and rival submissions and in view of the discussions stated above and service matrix of the petitioners, I find that the second respondent after taking into consideration the factual service matrix of the case and also the nature of the employment that they have not employed, required number of years of service has come to the conclusion that the petitioners did not work continuously and there was a regular work break in service and hence the direction issued in G.O.Ms.No.52, Finance (FR-II) Department dated 14.01.1977 are not applicable to this case.

17.As per G.O.Ms.No.22, P&AR Department dated 28.02.2006, persons who have rendered 10 years of service as on 01.01.2006 be regularized by appointing them in the time scale of pay of the post in accordance with the service conditions prescribed for the post concerned. After 31.03.2004, they were not engaged for any work in the



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Forest Department and the G.O.Ms.No.22 P&AR Department, dated 28.02.2006 is also not applicable to this case and hence, the finding appears to be just and reasonable and does not warrant any interference on the factual matrix of this case and hence, I find no merits in this case.

18. In the result, this Writ Petition is dismissed. No costs.

18.07.2023

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Index:Yes/No

Neutral Citation : Yes/No

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