



W.P.No.23743 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 18.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE **K.KUMARESH BABU**

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1. V.Kanakaraj
2. R.Ganesan
3. V.Ramanathan
4. A.John Tamiz Maran
5. R.Mathiazhagan
6. K.Uma
7. Anbarasan
8. P. Thangavelu
9. S.Subramanian
10. Sarprasatham

...Petitioners

Vs.

1. The State of Tamil Nadu
Rep. By its Secretary
Public Works Department,
Fort St. George, Chennai – 600 009.
2. The Chief Engineer (General) &
Engineer in Chief
Public Works Department,
Chepauk, Chennai – 600 005.
3. The Principal Accountant General
(Accounts and Entitlement),
No.361 Anna Salai,
Chennai – 600 018.



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4. The Assistant Executive Engineer
PWD/ WRO
Marudaiyaru Basin Sub – Division
Ariyalur.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus, to call for the records relating to 3rd respondent's order in No.GPF/LPS/TRS-145417/2010-2011/208565 dated 31.01.2011 to quash the same and consequently direct the respondents to extend the benefits of pension scheme to the petitioners herein.

For Petitioners : Mr.L.Chandrakumar

For R1, R2 & R4 : Mr.A.M.Ayyadurai
Government Advocate

ORDER

This Writ Petition had been filed seeking to call for the records relating to 3rd respondent's order in No.GPF/LPS/TRS-145417/2010-2011/208565 dated 31.01.2011 to quash the same and consequently direct the respondents to extend the benefits of pension scheme to the petitioners herein.

2. Heard Mr.L.Chandrakumar learned counsel appearing for the petitioners and Mr.A.M.Ayyadurai, learned Government Advocate appearing for R1, R2 & R4.

3. The learned counsel for the petitioners would submit that, petitioners



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were all initially appointed as casual labourers and upon completion of 10 years of services, based on the policy of the Government, their services were regularized with effect from the date of completion of 10 years of services. But, however, the claim of the petitioners for pension had been rejected by the order impugned by holding that the pension scheme is not applicable as their services were not regularized prior to 01.04.2003 and they would have to apply only under contributory pension scheme.

4. The learned counsel for the petitioner further submit that, Full Bench of this Court had held that, persons who were regularized prior to 01.04.2003 would be entitled to regular pension. Further, he would submit that, in respect of NMRs/ casual labourers, the Government had issued G.O.M.S.No.334 dated 19.10.2007 directing regularization of services of Nominal Muster Roll employees, who have completed 10 years of service. He would further submit that, if there was any relaxation of eligibility criteria, then financial benefit will only reckoned from that date but in all other cases, from the date they completed 10 years of service. However, in both case, mandatory benefits will only accrue from the date of issue of Government Order.

5. The learned counsel for the petitioners further submitted that, even



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though petitioners had completed 10 years of service even prior to 01.04.2003,

the claim of the petitioners under regular pension scheme have been rejected.

Therefore, he would request this Court to interfere with the order impugned and consider the case of the petitioner.

6. Per contra, the learned Government Advocate submitted that, not all the petitioners had completed 10 years of service as on 01.04.2003 for them to claim the pension. In view of the Full Bench Judgment of this Court, he would contend that, even from the list given by the petitioners in the typed set, petitioners 2, 3, 4, 8, 9 & 10 had only joined the services after 01.04.1994 and they would have completed 10 years service after 01.04.2003 and therefore they would not be entitled for the benefits of Full Bench Judgement. As regards to petitioners 1,5, 6 and 7, he would contend that, their regularization happened only after G.O.M.S.No.334 and therefore, they would not be entitled for the benefit of the Full Bench Order, since the actual period of regularization had taken place only in the year 2007, as the Government Order ordering such regularization came to passed only in the year 2007. Therefore, he would contend that, the claim of the petitioners are wholly misplaced and seeks dismissal of the Writ Petition.

7. Considered the rival submissions and perused the records. It is an



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admitted fact that, the service of the petitioners had been all regularized pursuant to the G.O.334 dated 19.10.2007. It would be relevant to analyze the condition upon which, such regularization was directed to be passed:

(i) The Chief Engineer, Public Works Department concerned shall verify and clarify the fact that the Nominal Muster Roll have completed 10 years of service before issue of posting orders to the individual concerned and a certificate will be sent to Government accordingly.

(ii) where relaxation of eligibility criteria is involved, the financial benefit will be reckoned from the date of relaxation. In other cases, from the date they have completed 10 years of service. In either case actual monetary benefit will accrue from the date of issue of Government Orders.

(iii) the priority be given to the category of irrigation Assistant (Formerly known as Lascar) while allocation of posts among the 1056 Nominal Muster Roll employees and that the remaining posts be filled up according to the need and necessary.

8. As per the clause (2) of the condition prescribed, it could be seen that, what was reckoned to be made from the date of Government Order is only the actual monetary benefit. The reading of the three conditions prescribed in the



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Government Order, it could be only seen that the date of regularization will

have to date back to the date on which the respective individuals who have completed 10 years of service as Nominal Muster Roll employees/ casual laborers. Even according to the table given by the learned counsel for the petitioners, only petitioners 1, 5, 6 & 7 had completed 10 years of service on or before 01.04.2003, the date which, the Full Bench of this Court had fixed for persons who would be entitled to receive pension under the Old Scheme. In respect of other petitioners, they all have completed 10 years of service only after 01.04.2003 and therefore their claim cannot be countenanced. However, as regards to other petitioners (1, 5,6 & 7) , their service in consonance with the Government Order would have to be regularized on completion of 10 years of service ie., prior to 01.04.2003 in their cases. Even though the Government Order came to be passed, their right for regularization had been recognized by the Government and the said Government Order had been issued . They had also been regularized pursuant to the said Government Order in the year 2007. Their regularization will date back to the date on which they had completed 10 years of service.

9. In such view of the matter, I am of the considered view that the full



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Bench Judgement of this Court would squarely be applicable to their case.

Therefore, I am of the view that, the Writ Petition with respect to 1, 5,6 & 7 will have to be allowed with a direction to treat them as persons who service had been regularized before 01.04.2003 and apply the ratio of the Full Bench and grant them appropriate relief. However, in respect of other petitioners (2, 3, 4 , 8, 9 & 10), writ petition stands dismissed. The respondent shall carry out the direction issued in respect of petitioners 1, 5,6 7& within a period of 12 weeks from the date of receipt of copy of the order.

10. Accordingly, this Writ Petition is allowed in respect of petitioners (1,5,6 & 7) and dismissed in respect of other petitioners (2,3,4,8,9&10). No costs.

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Index :Yes/No
Internet :Yes/No
sma

K.KUMARESH BABU, J.

sma

To

1. The Secretary
Public Works Department,



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Fort St. George, Chennai – 600 009.

2. The Chief Engineer (General) &
Engineer in Chief
Public Works Department,
Chepauk, Chennai – 600 005.
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(Accounts and Entitlement),
No.361 Anna Salai,
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and M.P.No.1 of 2011

K.KUMARESH BABU,J.

This Writ Petition has been listed under the caption “for being mentioned” at the instance of the learned counsel for the petitioner.

2. The learned counsel for the petitioner had brought to the notice of this Court that the serial number given in paragraph No.9 of the judgment has been made from the tabular column in the typed set at page No.12. But, however, the same would have to read as per the cause title.

3. The said submission had been looked upon by me and found that the defect as pointed out by the learned counsel for the petitioner would have to be rectified. In such view of the matter, in the paragraph No.9, 3rd line, the numerals following the words “ in respect to” shall be deleted and shall be substituted by 2, 4, 5 and 10. Similarly in line 6 and 7 of the same paragraph, after the words “other petitioners”, the numerals shall be deleted and shall be substituted by 1, 3, 6, 7, 8 and 9. In the said view, even in paragraph 10, the numerals shown in the 2nd line shall also stand modified that is in respect of numerals 1, 5, 6 & 7 the same shall be substituted by



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numericals 2, 4, 5 & 10 and in respect of the numericals 2, 3, 4, 8, 9 & 10 the same shall stand substituted by the numericals 1, 3, 6, 7, 8 & 9.

4. Registry is directed to issue a fresh order copy on 21.02.2024.

16.02.2024

gba

Note: Issue order copy on 21.02.2024

K.KUMARESH BABU,J.

Gba

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and M.P.No.1 of 2011



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16.02.2024