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W.P.Nos.26202 to 26208 of 2012 and 25969 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.26202 to 26208 of 2012 and 25969 of 2012

WP.No.26202 of 2012

S.James

... Petitioner

Vs.

1.The Secretary to Government,
Public Works Department,
Fort St.George, Chennai-9

2.The Chief Engineer,
Public Works Department,
Chennai Division, WRO,
Chennai-5

3.The Superintending Engineer,
Public Works Department,
Vennar Basin Division, WRO,
Cuddalore

4.The Executive Engineer, WRO
Coleroon Basin Division
Coimbatore 608 001

5.The Assistant Executive Engineer, WRO,
Public Works Department,
Coleroon Basin Sub-Division,
Chidambaram

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue Writ of Mandamus directing the respondents to appoint the petitioner as Work Inspector, Grade-II based on completion of 10 years of service as Mazdoor Gr-II(daily wage labour) and bring him into regular time scale of pay from the date of initial appointment and grant him all consequential service and monetary benefits.

For Petitioner
in all WP's : Ms.R.Deepika Sonali
for Mr.M.Muthappan

For Respondents
in all WP's : Mr.T.M.Rajangam,
Government Advocate

COMMON ORDER

These writ petitions have been filed for direction directing the respondents to regularise the service of the petitioners in the post of Work Inspector Grade -II based on completion of 10 years of service as Mazdoor Grade II (daily wage labour).

2. Heard, the learned counsel appearing on either side.



W.P.Nos.26202 to 26208 of 2012 and 25969 of 2012

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3. The petitioners completed their SSLC and registered their names in Employment Exchange. They were sponsored and appointed as Mazdoor Grade II as daily wage employees in the Irrigation Wing of Public Works Department. Their service have been engaged for more than three months in a year right from the year 2000 to 2006. Thereafter, they were engaged as Mazdoor Grade II under contract labour system during the year 2006 to 2010 by the contractor, thereby they completed 10 years of their service in order to get themselves regularised as Work Inspector Grade-II. They were recommended by the Assistant Executive Engineer on 04.07.2011 countersigned by the Superintendent Engineer on 20.10.2011 and forwarded to the Superintendent Engineer, Pennar Basin Division, Cuddalore for the purpose of regularising their services. However, so far the second respondent did not consider their request.

4. On perusal of counter filed by the fourth respondent, revealed that the petitioners were engaged both as NMR and contractor's labour. During the contractors' labour period, they received salary



W.P.Nos.26202 to 26208 of 2012 and 25969 of 2012

through contractor and not from Public Works Department. There is no rule provision to regularise their service of contractors labour period. That apart, they were not recruited through the Employment Exchange. They were purely engaged on temporary in nature and they were itself disengaged as and when the work ceased to be exist. That apart, the regularisation of NMR's is a policy decision of the Government and it cannot be claimed as a matter of right. The Government passed order in GO.Ms.No.74, P&AR dated 26.07.2013 thereby framed the following norms to regularise the service of daily wages labourer.

“The service of the full time daily wage employees who were initially appointed on full time basis in consultation with the Employment Exchange to discharge the function of the post in the Tamilnadu Basic Service and completed 10(ten) years of service as on 01.01.2006 shall be regularize against regular vacancies in the sanctioned cadre strength.”

5. In view of the above, the second respondent is directed to pass appropriate orders on the request made by the petitioners as per the present norms and rules.



W.P.Nos.26202 to 26208 of 2012 and 25969 of 2012

WEB COPY

6. With the above direction, all the writ petitions are disposed of. There shall be no order as to costs.

11.08.2023

Internet: Yes

Index: Yes/No

Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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6. The Government Advocate,
High Court, Madras.

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