



W.P.No.9820 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2023

CORAM

THE HON'BLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

Writ Petition No.9820 of 2023

Mr.T.Thirumal

... Petitioner

Versus

1. The Secretary to the Government
Animal Husbandry & Fisheries Department

2. The Commissioner,
Milk Production and Dairy Development,
Madhavaram, Chennai – 600 051.

3. The General Manager,
The Krishnagiri District Coop., Milk Producers Union Ltd.,
Kanagamutulu Post,
Salem Main Road, Krishnagiri Dt.,
Tamil Nadu – 635 001.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to regularization the petitioner's service as permanent employee with effect from date on which the petitioner completed 480 days continuous service in 24 calendar month i.e., on 01.05.1993 and pay all other attendant service benefits, monetary benefits to the petitioner based on the second respondent proceedings bearing reference No.Na.Ka.No.3252/No./3/2019, dated 26.04.2019 and considering the



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petitioner's representation dated 06.02.2019 and pass order thereon on merits and in accordance with law within a stipulated time fixed by this Court.

For Petitioner : Mr.P.R.Thiruneelakandan

For RR1 and 2 : Mr.S.Rajesh,
Government Advocate

ORDER

The Writ Petition has been filed in the nature of a Writ of Mandamus, to direct the respondents, to regularize the petitioner's service as a permanent employee with effect from the date on which the petitioner has completed 480 days continuous service i.e., on 01.05.1993 and pay all other attendant service benefits and monetary benefits, based on the second respondent's proceedings bearing Reference No.Na.Ka.No.3252/No./3/2019, dated 26.04.2019 by considering the petitioner's representation dated 06.02.2019 and pass orders thereon on merits and in accordance with law, within a stipulated time fixed by this Court.



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2. The case of the petitioner in brief:

(a) The petitioner was appointed as casual worker under the third respondent/Society on 23.06.1989 and had completed 480 days of continuous service as on 14.05.1991 and that during the period 1989 to 1994, the respondents employed 65 employees as casual workers and the workers have also completed 480 days of continuous service as early as in the year 1995 itself and hence, by virtue of Section 3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, the petitioner was deemed to be a permanent employee of the third respondent/Society and however, instead of regularizing his service as a permanent employee, the third respondent continued to employ him as casual worker. While so, the petitioner made a repeated request to the respondents to regularize his service as a permanent employee from the date on which he has completed 480 days of continuous service in the third respondent/Society, but there is no response from them and hence, the petitioner and all workers jointly filed a Writ Petition in W.P.No.16392 of 1992, seeking regularization of service, in which, this Court, by order dated 11.03.1997 in W.M.P.No.1867 of 1997 in W.P.No.16392 of



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1992, directed the Government to fix the date of confirmation of workers as on 01.05.1993 and confirm their service with effect from the said date.

(b) Pursuant to the above order of this Court, the second respondent, vide letter in reference No.12482/NI/2003, dated 10.04.2008, sent a proposal to the Government to regularize the service of 76 casual workers of Dharmapuri District Co-operative Milk Producing Union appointed through Employment Exchange and who have completed 480 days of continuous service in two year period on or before 11.03.2001 and who have acquired education qualification to the post in which they sought to be regularized. The Government also, considering the said proposal of the second respondent, issued order vide G.O.(2D) No.121, Animal Husbandry Dairy and Fisheries (MP-II) Department, dated 22.08.2008 to regularize the service of 76 casual laborers including the petitioner, who are recruited through Employment Exchange and possess required age and education qualification to the post of Junior Factory Assistant with effect from 22.08.2008 and also to pay the monetary benefits. The respondents,



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instead of regularizing his service from 14.05.1991, have chosen to regularize his service only from the date of the Government Order, which is contrary to the letter and spirit of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act.

(c) Thereafter, the Director of Milk Production Diary Development, Chennai, vide letter in Na.Ka.No.3552/No.3/2019, dated 26.02.2019, directed the third respondent to regularize the petitioner's service with notional effect from 01.05.1993 and pay monetary benefits from 01.01.2019, pursuant to which, the third respondent, vide proceedings dated 18.11.2019, agreed to implement the order of the first respondent dated 12.11.2019, after getting consent from the Administrative Board, but till date, the order of the first respondent has not been implemented by the third respondent. The third respondent had not come forward to regularize the petitioner's service from 01.05.1993 and extend all monetary benefits in accordance with the Tamil Nadu Industrial Establishment (conferment of Permanent Status to Workmen) Act, imposed duty upon the employer to regularize the service of the workmen on completion of 480 days continuous service



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in 24 calendar months and even if the workmen fail to claim regularization or the employer fails to confirm the worker as permanent employee, on their completion of 480 days in 2 calendar year months, they deemed to be a permanent workmen under the deemed provisions of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act. Hence the present Writ Petition.

3. The learned counsel appearing for the respondents submitted that the representation given by the petitioner would be considered by the authorities concerned and appropriate orders would be passed on its own merits.

4. In view of the above submissions, it is seen that the respondents have already agreed that they will consider the representation dated 06.09.2019 made by the petitioner and pass appropriate orders, based on the earlier directions issued by this Court. If the Administrative Committee Meeting is conducted from the year 2019-2022, the same has not been considered by the respondents, and hence, this Court directs the respondents to consider the petitioner's



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representation dated 06.09.2019 and pass appropriate orders on merits in accordance with law as early as possible preferably within a period of eight weeks from the date of receipt of a copy of this order.

5. With the above directions, this writ petition is disposed of. No order as to costs.

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ssi
Index : Yes/No
Speaking Order : Yes/No
Neutral Citation Case: Yes/No

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V.BHAVANI SUBBAROYAN,J.

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