



W.P. Nos. 36537 to 36543 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON :	29.03.2023
ORDERS PRONOUNCED ON :	.06.2023

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. Nos. 36537 to 36543 of 2015
and M.P.Nos.1 of 2015 (7 Nos)

W.P.No.36537 of 2015:

V.Ramamoorthy
S/o Veeran

....Petitioner

-VS-

1.State of Tamil Nadu
Rep.by its Secretary to Government
Cooperation, Food and Consumer
Protection Department
Fort St.George, Chennai – 600 009.

2.Tamil Nadu Civil Supplies Corporation Ltd.,
Rep.by its Chairman & Managing Director
No.42, Thambusamy Street
Kilpauk, Chennai – 600 010.

3.The Manager (Administration) – I
Tamil Nadu Civil Supplies Corporation Ltd.,
Head Office, No.42, Thambusamy Street
Kilpauk, Chennai – 600 010.



W.P. Nos. 36537 to 36543 of 2015

4.The Regional Manager
Tamil Nadu Civil Supplies Corporation Ltd.,
Cuddalore Region
Nellikuppam Road, Cuddalore.

...Respondents

Prayer in W.P.No.36537 of 2015: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned orders (i)G.O.Ms.No.213, Cooperation, Food and Consumer Protection Department dated 15.10.1998 issued by the 1st respondent (ii) Head Office Circular No.E8/109053/95 dated 29.09.2000 issued by the 2nd respondent and consequential impugned orders in (iii)Rc.No.S6/8781/99 dated 30.09.2000 and (iv) Memo in Na.Ka.No.E4/5780/14 dated 19.09.2014 issued by the 4th respondent and quash the same in so far as it relates to failure to absorb the petitioner and regularize the services of the petitioner from the date of their initial appointment as Casual Labour, denial of back wages, Medical allowance, Washing allowance, Tea and dust allowances, surrender of earned leave and encashment of earned leave on death / retirement, Leave Travel concession and appointment on compassionate ground in case of death while in service and all other fringe benefits which are being extended and granted to the regularly appointed packers of the Tamil Nadu Civil Supplies Corporation Ltd., and consequently direct the 2nd respondent herein to absorb and regularize the services of the petitioner from the date of initial appointment, pay the back wages, pay and extend all the allowances, which are being paid to the regularly appointed Packers including the arrears, within the time fixed by this Court.



W.P. Nos. 36537 to 36543 of 2015

In all the Writ Petitions:-

For Petitioners : Mr.K.Premkumar
For Respondents : Mr.U.M.Ravichandran,
Special Government Pleader for R1
Mr.C.Selvaraj, for RR2 to 4

COMMON ORDER

The above writ petitions are filed by the petitioners challenging the impugned orders, whereby, the 2nd respondent-Chairman and Managing Director, Tamil Nadu Civil Supplies Corporation Ltd., absorbed the petitioners in the time scale of pay of Rs.2550-55-2660-60-3200 and regularized them in the existing vacancy but not from the date of their initial appointment and for denial of certain benefits.

2. Referring briefly to the facts of the case, it is to state that petitioners were appointed as casual labourers/Loadman in the Non-Rationed Commodities (NRC) Godown at Cuddalore, with effect from May 1996 and they were in service for over 10 years.



W.P. Nos. 36537 to 36543 of 2015

3. Petitioners filed a petition under Section 3 (1) of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, before the Inspector of Labour, Cuddalore, seeking permanent status and for consequential benefits. The said application was allowed on 27.08.1998. The authority directed the respondent Corporation to confer the permanent status to the petitioners and all other applicants, from the date of their respective completion of 480 days in 24 months and from the date of their appointment.

4. Challenging the said order, the 4th respondent-Regional Manager, TNCSC, Cuddalore, preferred a Writ Petition before this Court in W.P.No.3061 of 1999.

5. During the pendency of the above said Writ Petition, the respondent Corporation passed an order dated 30.09.2000 conferring permanent status to the petitioners and other applicants, by absorbing them in the time scale of pay of Rs.2550-55-2660-60-3200, with effect from 01.10.2000, subject to the conditions that they are not entitled for any claim equating them to the existing Packers of the respondent Corporation.



WEB COPY

6. The petitioners joined the services of the respondent Corporation as Packers, with effect from 01.10.2000, at Cuddalore Region, but without all the benefits. After absorption and permanent appointment in the post of Packer, the respondent Corporation withdrew the Writ Petition filed by them in W.P.No.3061 of 1999 on 19.04.2006.

7. In the meantime, petitioners made repeated representations to the 4th respondent, to extend all the benefits which are being paid and extended to the regular Packers, since the nature of works carried out by both are one and the same. However, the 4th respondent rejected the representation of the petitioners, vide proceedings dated 18.09.2014. It is pointed out that the appointment of the petitioners were based on two circulars issued by the 2nd respondent-Chairman and Managing Director, TNCSC, which was based on G.O.Ms.No.213, Co-operation, Food and Consumer Protection Department dated 15.10.1998, with a view to regularize the services of 215 Casual Labourers, who have completed 480 days of duty in 24 calendar months.



8. Though the petition for conferment of permanent status was allowed on 27.08.1998, well before the G.O.Ms.No.213 dated 15.10.1998, the respondent Corporation, chose to absorb the casual labourers in the post of Packers only with effect from 01.10.2000 and not from the date of their respective appointments and also not equated with the regular Packers working in the respondent Corporation. Hence the Writ Petition.

9. Mr.K.Premkumar, learned counsel for the petitioners would submit that the petitioners were conferred with permanent status and their services were ordered to be regularized and absorbed in the time scale of pay of Rs.2550-55-2660-60-3200 only with effect from 01.10.2000. When all the petitioners were put on probation and were declared to have satisfactorily completed the period of probation with effect from 01.10.2000, on being regularized, they are entitled to get the benefits of medical allowance, washing allowance, tea and dust allowances, surrender of earned leave and encashment of earned leave on death / retirement, Leave Travel concession and appointment on compassionate ground in case of death while in service and all other fringe benefits, which are being extended and granted to the regularly appointed packers of the respondent



W.P. Nos. 36537 to 36543 of 2015

Corporation. Once a person is absorbed and regularized as Packers, there would be no further distinction amongst the Packers.

10. The learned counsel for the petitioners would further submit that the service regulations of the Tamil Nadu Civil Supplies Corporation Limited defines a regular employee as one whose probation has been declared to have been satisfactorily completed in any post of the Corporation. In the case of the petitioners, when all of them had become the regular employees, they are eligible to get the benefits attached to the post without any discrimination. Therefore, the benefits which are applicable to the packers cannot be denied to the petitioners after their regularisation.

11. Mr.K.Premkumar, learned counsel, in support of his submissions, would place the decision of a Division Bench of this Court in ***W.A.No.324 of 2015 dated 10.07.2015 [The Tamil Nadu Civil Supplies Corporation Ltd., Vs. I.G.Palani and 7 others]***.

12. The said appeal was filed by the TNCSC as against allowing the writ



W.P. Nos. 36537 to 36543 of 2015

petitions by this court whereby, fringe benefits were granted to the petitioners therein. The Division Bench held that the writ petitioners were appointed on probation for a period of two years and they have completed probation satisfactorily and were declared as confirmed; regulations do not distinguish on the basis of the mode of selection between one regular employee and other regular employee and as such, the distinction cannot be created by way of orders, executive instructions contrary to the statutory provisions of regulations.

13. The learned counsel appearing for the respondents 2 to 4 filed a counter affidavit and would contend that the present Writ Petitions have been filed after lapse of 15 years of passing of the impugned orders. As per the policy decision dated 30.09.2000, some of the casual employees who had rendered long period of service were sympathetically accommodated in a super numeric post in the time scale of pay of Rs.2550-55-2660-60-3200 with effect from 01.10.2022, on a condition that they shall not equate them to the existing Packers of the respondent Corporation, therefore, the prayer of the petitioners, is devoid of merits.

14. Heard both sides and perused the records.



W.P. Nos. 36537 to 36543 of 2015

WEB COPY 15. It is an admitted case that the respondent Corporation has chosen to absorb the petitioners in the post of Packers with effect from 01.10.2000 and treated them in a separate group and failed to extend the same service and monetary benefits, which are being extended and enjoyed by the regular Packers and casual labourers, whose services were regularized, which is nothing but discrimination and violations of the provisions of the Tamil Nadu Act 46 of 1981.

16. It is a matter of record that the order passed in W.P.No.10108 of 2008 was allowed by this court by order dated 11.03.2014. The petitioners therein were granted fringe benefits as extended to the regular employees. The said order was confirmed by the Division Bench in W.A.No.324 of 2015 by judgment dated 10.07.2015. The appeal filed by TNCSC as against the said judgment was also confirmed by the **Hon'ble Supreme Court in SLP.(C).No...../2016 CC.No.22375/2015 on 05.01.2016** and at the stage of condonation of delay, the Hon'ble Supreme Court has held that "*We see no reason to interfere with the order impugned herein. The Special Leave Petition is dismissed.*".



W.P. Nos. 36537 to 36543 of 2015

17. The State and its agencies like that of the respondent-corporation are expected to extend the benefit of a judicial pronouncement to all similarly placed employees without forcing each person to individually knock the doors of courts. As such, following the law laid down in this regard, this court directs the respondent Corporation to absorb and regularize the services of the petitioners, from the date of their respective completion of 480 days in 24 months with all monetary benefits/fringe benefits as extended to regular employees, within a period of four months from the date of receipt of a copy of this order.

18. The Writ Petitions are allowed with the above directions. No costs. Consequently connected miscellaneous petitions are closed.

01.06.2023

Jer/nvsri
Internet: Yes/No
Speaking Order: Yes/No
Neutral citation: Yes/No



W.P. Nos. 36537 to 36543 of 2015

To:

1.The Secretary to Government
State of Tamil Nadu
Cooperation, Food and Consumer
Protection Department
Fort St.George, Chennai – 600 009.

2.The Chairman & Managing Director
Tamil Nadu Civil Supplies Corporation Ltd.,
No.42, Thambusamy Street
Kilpauk, Chennai – 600 010.

3.The Manager (Administration) – I
Tamil Nadu Civil Supplies Corporation Ltd.,
Head Office, No.42, Thambusamy Street
Kilpauk, Chennai – 600 010.

4.The Regional Manager
Tamil Nadu Civil Supplies Corporation Ltd.,
Cuddalore Region
Nellikuppam Road, Cuddalore.



WEB COPY



W.P. Nos. 36537 to 36543 of 2015

J.NISHA BANU, J.,

Jer/nvsri

Pre-Delivery order in
W.P. Nos. 36537 to 36543 of 2015

Dated:
01.06.2023