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Writ Appeal Nos.936 of 2018 & 1967 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07.12.2023

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE G.ARUL MURUGAN**

**Writ Appeal Nos.936 of 2018 & 1967 of 2019
and C.M.P.Nos.8067 of 2018 & 13341 of 2019**

W.A.No.936 of 2018

1.The State of Tamil Nadu
represented by its Secretary,
Public Works Department,
Fort St.George, Chennai - 9.

2.The Engineer-in-Chief and Chief Engineer,
Public Works Department,
Chepauk, Chennai - 5.

... Appellants

Vs

1.S.John Charles
S/o.V.Sellamuthu

2.A.Raja Stalin
S/o.Arappulli

3.V.Saravanakumar
S/o.P.Vaiyapuri

4.B.S.Chandra Mahalingam
S/o.B.T.Sennan



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5.The Secretary to Government,
Personnel and Administrative Reforms Department,
Fort St.George, Chennai - 9.

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, against
the order of this Court dated 22.09.2017 made in W.P.No.7595 of 2014.

For Appellants : Mr.K.V.Sajeev Kumar
in both W.As. Special Government Pleader
For Respondents : Not Ready in Notice [R1 to R3]
No appearance [R4]
Mr.R.Kumaravel
Additional Government Pleader [R5]

W.A.No.1967 of 2019

1.The State of Tamil Nadu
represented by its Secretary,
Public Works Department,
Fort St.George, Chennai - 9.

2.The Principal Chief Engineer (Buildings) &
Chief Engineer (General),
Public Works Department,
Chepauk, Chennai - 5.

... Appellants

Vs

1.M.Kumar
S/o.Mohan

2.C.Paulraj
S/o.Ciluvaimuthu

3.S.Baskaran
S/o.V.Shanmugam



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4.P.Sampath Kumar
S/o.I.Palanisamy

5.N.Mohanraj
S/o.Nallappan

6.A.P.Pusphanathan
S/o.Ponnan

7.C.Paulraj @ Palan
S/o.Chinaan

8.R.Vijayarani
W/o.G.Magesh

9.L.Mary Quintiliya
W/o.M.Fernandez

10.The Chief Secretary to Government,
Personnel and Administrative Reforms (F) Department,
Fort St.George, Chennai - 9. ... Respondents

PRAYER: Writ Appeals filed under Clause 15 of Letters Patent, against
the order of this Court dated 22.09.2017 made in W.P.No.29212 of 2014.

For Appellants : Mr.K.V.Sajeev Kumar
Special Government Pleader

For Respondents : Mr.L.Chandrakumar [R1 to R9]
Mr.R.Kumaravel
Additional Government Pleader [R10]



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COMMON JUDGMENT

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(Judgment of the Court was delivered by R.SURESH KUMAR,J.)

These intra-court appeals since arisen out of a common order passed by the Writ Court dated 22.09.2017, with the consent of the learned counsel appearing for both sides, these writ appeals were heard together and are disposed of by this common order.

2. These private respondents, who are the writ petitioners in W.P.No.29212 of 2014 and W.P.No.7595 of 2014 before the Writ Court sought to quash the order passed by the appellant Department rejecting their plea to regularize their service on their completion of 10 years of service as per G.O.Ms.No.22, Personnel and Administrative Reforms (F) Department, dated 28.02.2006 followed by G.O.(Ms.)No.74, Personnel and Administrative Reforms(F) Department, dated 27.06.2013.

3. The learned Judge, who heard the said writ petition along with the connected writ petitions passed a common judgment on 22.09.2017, which is impugned herein, where the learned Judge was pleased to set aside the paragraph 6 of the G.O.Ms.No.74, dated 27.06.2013 and the



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petitioners in all those writ petitioners were declared to be entitled for regularization of their services on completion of 10 years of service by virtue of G.O.Ms.No.22, dated 28.02.2006.

4. In fact, the issue raised in these intra-court appeals is no more *res-integra* as many number of similar cases had already been dealt with by the various Division Benches arisen out of the orders passed by the Writ Court, where orders have been passed, directions were given to the employers/Department of the State concerned to regularize the services of the employees, who had been engaged prior to 2006 on completion of their 10 years service as on 01.01.2006 as per G.O.Ms.No.22, dated 28.02.2006 referred to above.

5. Subsequently, the Government issued G.O.Ms.No74, dated 27.06.2013, wherein supersession of the earlier orders passed by the Government, the Government had issued revised orders of regularization of services of full time daily wage employees working in all Government Department, where certain conditions have been imposed with regard to the calculation of 10 years period. According to the said conditions, the service of full time daily wage employee, who have completed 10 years



of service after 01.01.2006 shall not be regularized. This kind of onerous condition since has been issued in G.O.Ms.No.74, dated 27.06.2013, which run contra to G.O.Ms.No.22, dated 28.02.2006 as the G.O.Ms.No.22 was issued as per the policy decision of the Government to regularize the service of the full time employees of 10 years service, when the validity of such conditions in G.O.Ms.No.74, dated 27.06.2013 was questioned, the learned Judge, who passed the order impugned on 22.09.2017 has passed the following order:

“24. For the foregoing reasons, the impugned G.O.Ms.No.74, P. & AR. Department, dated 27.06.2013 is hereby set aside insofar as para is concerned and the petitioners in all the writ petitions are entitled to regularization of their services on completion of 10 years of service by virtue of G.O.Ms.No.22 P. & AR Department, dated 28.02.2006 and also in line with similar orders passed by this Court in various earlier writ petitions quoted supra. The respondents are directed to pass orders regularizing the services of the petitioners, within a period of three months from the date of receipt of a copy of this order.

With the above observation and direction, these writ petitions are allowed. No costs. Consequently, connected MPs are closed.”



6. As against the common judgment, already writ appeals have been filed and those writ appeals were disposed of appreciating the stand taken by the Writ Court in quashing the paragraph 6 of G.O.Ms.No.74, dated 27.06.2013 and extending the benefit of completion of 10 years service on or before 27.06.2013, the date on which the G.O.ms.No.74 was issued.

7. This legal position has been consistently followed in number of cases.

8. Recently, similar writ appeals in W.A.Nos.606 of 2019 and etc., batch came to be considered by a Division Bench of this Court, where one of us (RSKJ) is a party in the matter of ***The State of Tamil Nadu Vs. M.Padmavathi and Ors.***

9. In the said batch of cases, the Division Bench by order dated 16.08.2023 has considered these aspects as has been discussed herein above and ultimately passed the order stating that since orders passed by the Writ Court in those cases have been complied with. One of such writ appeals viz., W.A.Nos.606 of 2019 in the said batch was closed and the



contra order passed by the Writ Court as against the import of G.O.Ms.No.22 and G.O.Ms.No.74, *de-hors* of paragraph 6 of G.O.Ms.No.74 was considered to be an order, which is not in consonance with the policy of the Government and ultimately, the Division Bench was pleased to set aside those orders and as a sequel the Government was directed to consider the claim of the appellants/employees and it was further directed to regularize their services in accordance with G.O.Ms.No.74, dated 27.06.2013 by taking the notification of the G.O dated 27.06.2013 as be the cut off date for fixing the period of completion of 10 years period.

10. In this context, it is to be noted that the appellant/State/PWD Department before the Writ Court filed counter affidavit in the said writ petition, where *inter alia* they have given the statistics with regard to the number of years these employees had been engaged.

11. According to the said statistics three out of four employees had been engaged either from 1994 or 1996 and one such employee had been engaged from 1998. Therefore, continuously they had been engaged more than 10 years as on 2006 and in respect of one employee as on 2008.



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12. Insofar as the cut off date is concerned, as the paragraph 6 of G.O.Ms.No.74, dated 27.06.2013 since was set aside, the date of G.O. i.e., 27.06.2013 was directed to be taken as a cut off date before which whoever completed 10 years of service would be entitled to seek for regularization and accordingly, such a direction was issued not only in the Division Bench judgment, which has been referred to above but also in similarly placed cases.

13. Insofar as these employees are concerned, who are the respondents herein as stated supra, all of them have completed 10 years of service either in 2006 or in 2008, therefore, well before the cut off date of the year 2013, therefore they are entitled to get regularization on their completion of 10 years of service.

14. Since these employees are also similarly placed and they are entitled to get regularization as has been discussed herein above, we feel that the orders passed by the learned Judge giving such directions to regularize the service of these employees does not warrant any interference from this Court. As a sequel, these appeals are deserve to be



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rejected and accordingly, these writ appeals are dismissed. No costs.

Consequently, connected miscellaneous petitions are closed.

(R.S.K.,J.)

(G.A.M., J.)

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Index: Yes/No

Speaking Order/Non Speaking Order

Neutral Citation:Yes/No

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R.SURESH KUMAR, J.
and
G.ARUL MURUGAN, J.

mp

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