



WEB COPY



W.P.No.25401 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:05.01.2023

Coram

The HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P.No.25401 of 2022

and

W.M.P. Nos.24379, 24380 and 28251 of 2022

- 1.V.Muruganandam
- 2.G.Velu
- 3.R.Ganesan
- 4.P.Thangavel
- 5.P.Jagadeesan
- 6.R.Manivel
- 7.A.Palanichamy
- 8.D.Thiruniraichelvan
- 9.R.Bernardsha
- 10.I.T.Inbasekaran
- 11.M.Rajendran
- 12.S.Praveenkumar
- 13.R.Ramesh Babu
- 14.R.Kuppusamy
- 15.A.Ramaraj
- 16.M.K.Venkataraman
- 17.K.Kumar
- 18.R.Shanmuganathan
- 19.M.Senthil
- 20.C.Palani
- 21.S.Amal Raj

.. Petitioners

VS

- 1.The Principal Secretary to Government,
Rural Development and Local
Administrative Department,
Fort St. George, Chennai.



W.P.No.25401 of 2022

2.The Director of Rural Development,
Panagal Building, Saidapet,
Chennai – 15.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the first respondent in Letter (Va) No.3144/Pa.A.5/2021-1 dated 22.12.2021 and quash the same and consequently direct the respondents to regularise the services of the petitioners as Drivers in the Block Development Offices of different Collectorates in the light of the proposals forwarded by the second respondent vide his proceeding Na.Ka.No.27020/2014/F1 dated 18.12.2018 and in the light of the order passed by this Court in W.P.No.8500 of 2020 dated 17.09.2020 and W.P.No.16836 of 2020 dated 01.12.2020.

For Petitioners : Mr.P.Muthukrishnan

For Respondents : Mr.R.U.Dinesh Rajkumar,
Addl. Govt. Pleader

ORDER

The petitioners seek for regularisation of their services on the ground that they have been working in the second respondent department ever since 1998 onwards as Drivers. They had earlier made a representation to the respondents seeking for regularisation. Since the representation was not considered, they had to approach



W.P.No.25401 of 2022

WEB COPY
this Court by filing a writ petition. Pursuant to directions given by this Court in the said writ petition, the representation of the petitioners was considered by the respondents and by the impugned order passed by the first respondent, the same has been rejected on the ground that G.O.Ms.No.74 Personnel and Administrative Reforms (F) Department dated 27.06.2013 is not applicable to the case of the petitioners as they have been given employment by back door entry i.e., irregular employment.

2. The petitioners have challenged the impugned order on various grounds and they have categorically contended that arbitrarily and illegally, by total non-application of mind to the fact that the petitioners have been working ever since 1998 as Drivers, the first respondent has rejected the request for regularisation. They have also contended that the second respondent in fact has recommended the case of the petitioners for regularisation as early as on 13.02.2015. They have also contended that a similarly placed employee was also granted regularisation on 24.10.2008. The relevant documents in support of the petitioners' contentions have been filed along with this writ petition. However, a counter affidavit has been filed by the respondents denying the contentions of the petitioners and reiterating



W.P.No.25401 of 2022

the contents of the impugned order. They have relied upon G.O.Ms.No.74 Personnel and Administrative Reforms (F) Department dated 27.06.2013 and would submit that since the petitioners were not appointed through the employment exchange and they are irregular appointee, the question of they being regularised will not arise.

3. Learned counsel for the petitioners drew the attention of this Court to the following decisions in support of the petitioners' contentions that once they have completed ten years of service they ought to have been regularised:

1.Secretary, State of Karnataka and Others Vs. Umadevi(3) and Others reported in (2006) 4 SCC 1;

2.Narendra Kumar Tiwari and Others Vs. State of Jharkhand and Others (2018) 8 SCC 238;

3.Division Bench judgment of Madurai Bench of this Court dated 21.02.2017 in the case of The Secretary to Government, Highways Department, Secretariat, Chennai and another Vs. V.Meenakshi Sundaram and Others in W.A. (MD) No.913 of 2015.

4. Relying upon the aforesaid decisions, learned counsel for



W.P.No.25401 of 2022

the petitioners would submit that the petitioners having completed ten years of service long time back and that too when the similarly placed employee was granted regularisation in the year 2008, they cannot be discriminated and they ought to have been granted regularisation. He would also submit that G.O.Ms.No.74 Personnel and Administrative Reforms (F) Department dated 27.06.2013 which the respondents rely upon is only prospective in nature and cannot be applied retrospectively.

5. Per contra, learned Additional Government Pleader appearing for the respondents would reiterate the contents of the counter affidavit filed by the respondents before this Court and would submit that only by applying G.O.Ms.No.74 Personnel and Administrative Reforms (F) Department dated 27.06.2013, the petitioners' representation for regularisation has been rejected.

6. This Court has perused and examined the impugned order which is the subject matter of challenge in this writ petition. The decisions relied upon by the learned counsel for the petitioners as well as the fact that a similarly placed employee was granted regularisation in the year 2008 has not been considered in the



W.P.No.25401 of 2022

impugned order. It is not known as to why when a similarly placed employee was granted regularisation in the year 2008, the petitioners were not granted regularisation.

7. The decisions relied upon by the learned counsel for the petitioners referred to supra on a prima facie consideration may support the case of the petitioners as even in those decisions, employees who are irregularly appointed and were serving for more than ten years were granted regularisation. However, this Court is not expressing any opinion on the merits of the petitioners' claim since the petitioners' contentions have not been considered in the impugned order and that too when the petitioners categorically contend that the similarly placed employee was granted regularisation in the year 2008 and the said order has also been produced before this Court. This Court is of the considered view, after giving due consideration to the fact that the petitioners are admittedly working with the second respondent ever since 1998, that the matter has to be reconsidered once again after giving due consideration to the contentions raised by the petitioners in this writ petition by the first respondent.

8. In view of the fact that the impugned order is a non-



W.P.No.25401 of 2022

speaking order with regard to the contentions of the petitioners that have been raised in this writ petition, the impugned order has to be quashed. Accordingly, the impugned order dated 22.12.2021 is quashed and the matter is remanded back to the first respondent for fresh consideration on merits and in accordance with law. The first respondent is directed to consider all the contentions that have been raised in this writ petition including granting them one personal hearing at the convenience of the first respondent and thereafter pass final orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.

9. With the aforesaid direction, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

05.01.2023

Index:Yes/No
Neutral Citation:Yes/No
mmi



WEB COPY



W.P.No.25401 of 2022

To

- 1.The Principal Secretary to Government,
Rural Development and Local
Administrative Department,
Fort St. George, Chennai.

- 2.The Director of Rural Development,
Panagal Building, Saidapet,
Chennai – 15.



WEB COPY



W.P.No.25401 of 2022

ABDUL QUDDHOSE,J.

mmi

W.P.No.25401 of 2022

05.01.2023