



W.P. No. 27112 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 27112 of 2022

1. S.Muneeswaran
2. K.Ezhumalai
3. T.Dhanasekaran
4. E.Munusamy
5. S.Ezhumalai
6. S.Maheshkumar
7. A.Velmurugam

... Petitioners

-VS-

1. The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Highways Department,
Secretariat, Fort St. George, Chennai – 600 009.
2. The Chief Engineer,
Highways & Rural Works,
Chepauk, Chennai – 600 005.
3. The Divisional Engineer,
Highways & Rural Works,
Chengalpattu Division.

... Respondents



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Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Respondents to regularize the service of the Petitioners by the absorbing them in permanent post in regular time scale of pay in the light of the long years from 1990 to 2003 of services rendered by them.

For Petitioners : Mr. G.R.Hari

For Respondents : Mr. B.Vijay,
Additional Government Pleader

O R D E R

Heard Mr. G.R.Hari, Learned Counsel for the Petitioners and Mr. B.Vijay, Learned Additional Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. Though the Writ Petition has been filed for directing the Respondents to regularize the service of the Petitioners by the absorbing them in permanent post in regular time scale of pay in the light of the long years from 1990 to 2003 of services rendered by them, Learned Counsel for the Petitioners submits that the Petitioners would be satisfied, if the representation dated 29.03.2022 made by them in that regard is directed to be disposed by the concerned authority within the time limit that may be fixed by the Court.



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3. It has been brought to notice that persons similarly placed to the Petitioners have been granted relief by order dated 09.12.2005 in W.P. No. 36623 of 2004 passed by the Court. In this context, reference must also be made to the dictum of the Hon'ble Supreme Court of India in ***State of Uttar Pradesh -vs- Arvind Kumar Srivastava*** [(2015) 1 SCC 347], where it has been held as follows:-

"22.1. Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

22.2. However, this principle is subject to well recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful



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action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.

22.3. *However, this exception may not apply in those cases where the judgment pronounced by the Court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the Court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated person. Such a situation can occur when the subject matter of the decision touches upon the policy matters, like scheme of regularisation and the like (see K.C. Sharma & Ors. v. Union of India (supra). On the other hand, if the judgment of the Court was in personam holding that benefit of the said judgment shall accrue to the parties before the Court and such an intention is stated expressly in the judgment*



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or it can be impliedly found out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence."

Having regard to the aforesaid legal position, the obligation is cast upon the concerned authorities to have on their own accord extended the benefit to all similarly placed persons, if they are eligible for the same.

4. Having regard to the limited nature of relief sought, this Court without expressing any view on the correctness or entitlement of the claim made by the Petitioners, passes the following order:-

- (i) the concerned authority shall immediately examine the representation dated 29.03.2022 made by the Petitioners in terms of the order dated 09.12.2005 in W.P. No. 36623 of 2004 passed by the Court including ascertaining as to whether the Petitioners would be entitled for the relief claimed;
- (ii) if it is found that any other details or supporting documents is necessary, the deficiencies in that regard shall be informed in writing to the Petitioners requiring the same to be furnished within a time frame of not less than 15 days for the same;



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(iii) in the event of not being satisfied with the requirements even thereafter,

an enquiry shall be conducted affording full opportunity of personal hearing to the Petitioners and all other persons concerned to explain their position in that regard;

(iv) a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated by 31.08.2023 under written acknowledgment;

(v) if the Petitioner is found entitled to any monetary benefits, the same shall be paid along with working-sheet showing its calculation within a period of three months from the date of passing of that order; and

(v) the report of such compliance shall be filed before the Registrar (Judicial) of this Court.

In the result, the Writ Petition is disposed on the aforesaid terms.

No costs.

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Index: Yes/No

Neutral Citation: Yes/No

Note: Issue order copy by 28.06.2023.



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To

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1. The Secretary to Government of Tamil Nadu,
Highways Department,
Secretariat, Fort St. George,
Chennai – 600 009.
2. The Chief Engineer,
Highways & Rural Works,
Chepauk, Chennai – 600 005.
3. The Divisional Engineer,
Highways & Rural Works,
Chengalpattu Division.

Copy to

The Registrar (Judicial),
Madras High Court,
Chennai – 600 104.



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P.D. AUDIKESAVALU, J.

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