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WP.No.28348 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2023

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THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.28348 of 2021

K.Devammal

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Petitioner

Vs.

1.The State of Tamil Nadu rep by
its Secretary to Government,
Agriculture Department .
Fort St.George,
Chennai 600 009.

2.The Chief Engineer,
Agriculture Engineering Department,
No.487, Anna Saalai,
Nandanam,
Chennai 600 035.

3.The Executive Engineer (AE)
Central Stores,
Department of Agriculture Engineering,
Nandanam,
Chennai 600 035.

4.The Assistant Executive Engineer,
Department of Agriculture Engineering,
Nandanam,
Chennai 600 035.

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Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to



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issue a Writ of Mandamus, to direct the respondents to retrospectively regularize the services of the petitioner in the post of Mazdoor with effect from 01.02.1996 i.e. the date on which the petitioner had completed 10 years as Scavenger on daily wages with all consequential and service benefits.

For Petitioner : Mr.R.Prem Narayan

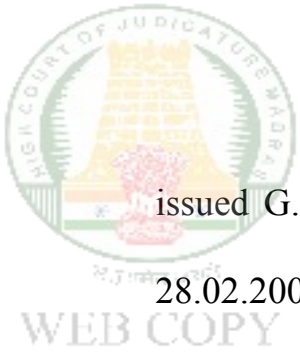
For Respondents : Mr.T.Arunkumar, Additional Govt. Pleader.

ORDER

This Writ Petition has been filed seeking to direct the respondents to retrospectively regularize the services of the petitioner in the post of Mazdoor with effect from 01.02.1996 i.e. the date on which the petitioner had completed 10 years as Scavenger on daily wages with all consequential and attendant benefits.

2. Heard the submissions made by both side learned counsels and perused the materials available on record.

3. The petitioner who is claiming to be working as Mazdoor in the office of the 3rd respondent has been regularized through G.O.(2D) No.178 Agriculture (AA3) dated 11.12.2006. In the order of regularization itself, it is stated that the petitioner is working from 01.02.1986. The government of Tamil Nadu had



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issued G.O.Ms.No.22 Personnel and Administrative Reforms Department dated 28.02.2006 for regularizing the services of daily wage employees who had completed 10 years of service as on 01.01.2006.

4.It is claimed by the petitioner that from the date of regularization has been granted from the date of completion of 10 years of qualifying service. However, in the impugned order dated 11.12.2006 the petitioner was regularised with effect from 01.12.2006 only. In view of the same the petitioner cannot commend the purview of the Tamil Nadu Pension Rules 1972 and she will be forced to be placed under the contributory pension scheme which was introduced with effect from 01.04.2003. since the similarly placed persons have been given with the regularization benefit from the date of completion of ten years service and allowed to come under the Tamil Nadu Pension Rules, the petitioner is deprived of the same. Hence the petition has been filed seeking direction to regularise the service of the petitioner in the post of Mazdoor with effect from 01.02.1996 on which date the petitioner had completed 10 years as a daily wager.

5.Even though the government order has given the benefit of regularisation to the causal worker who have been working for several years, the regularisation



was not made for all such casual workers in one and the same time. It appears that the regularisation order has been issued as when the vacancy had arisen and the petitioner was also absorbed in such a fashion.

6. The learned counsel for the petitioner invited the attention of this Court to the earlier judgements passed in respect of similarly placed persons and for whom the benefit of regularisation has been given from the date on which those persons had completed 10 years of service. In WP.No.6632 of 2020 (batch) the learned Single Judge has passed an order on 16.09.2020 by extending the benefit of regularisation from the date of completion of 10 years of service in conformity with the G.O.Ms.No.3, Environment and Forests (FR.2.II) Department dated 11.01.2019 & in G.O.Ms.No.48, Environment & Forests (FR.2.II) Department dated 27.05.2019.

7. However, it is claimed by the learned Additional Government Pleader for the respondents that the above mentioned G.O.Ms.No.3, Environment and Forests (FR.2.II) Department dated 11.01.2019 & in G.O.Ms.No.48, Environment & Forests (FR.2.II) Department dated 27.05.2019 are only applicable to the Forest Department and not to the petitioner who is employed in Agriculture



Department. Though in the administrative convenience of various departments the Government orders have been passed separately, the parity between the government servants should not be compromised in availing the service benefits.

8. In fact the government has challenged the order passed in WP.Nos.6632 of 2020 (batch) by filing batch of Writ Appeals in W.A.No.2875 of 2019 (batch). However in the Writ Appeal the matters were remitted back for writ court for fresh consideration to decide the eligibility for regularisation in accordance with para no.6 of G.O.Ms.No.74 Personnel and Administrative Reforms Department dated 27.06.2013. Hence the writ court has once again considered the issue and has dealt the paragraphs 6 to 10 in G.O.Ms.No.74 Personnel and Administrative Reforms Department dated 27.06.2013 and taken up for fresh consideration.

9. The argument placed by the Government before the Hon'ble Division Bench was that G.O.Ms.No.74 Personnel and Administrative Reforms Department dated 27.06.2013 was given with retrospective effect from 01.01.2006. However relying upon the earlier decisions the writ court has passed the following order in W.P.No.29346/2014 and batch dated.22.04.2022, is extracted hereunder:



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“10. In view of the numerous decisions which had upheld the orders of the learned single Judge granting the benefit of regularisation for even such of those employees who had completed 10 years of service after 01.01.2006, it cannot be gainsaid that by restoration of paragraph 6 of G.O.Ms.No.74 dated 27.06.2013 the substratum of the claim of the petitioner would stated to be negated or reversed.

11. The Government itself has recognised the directions issued by this Court in various writ petitions and had implemented the same by regularising the services of several casual employees who had completed 10 years of service after 01.01.2006. In that view of the matter, Articles 14 and 16 are directly attracted in support of the claims of these writ petitioners. Therefore, their claims need not ultimately dependent on this Court setting aside paragraph No.6 of G.O. Ms.No.74 dated 27.06.2013 and their claims could otherwise also be allowed and sustained on the basis of the decisions of this Court rendered in the interregnum between 2006 and 2013 where two G.Os. were in force (G.O.Ms.No.22 and G.O.Ms.No.74). The above narrative would also point the fact that some of the decisions of this Court granting regularisation have also been confirmed by the Hon-ble Supreme Court.

12. In the light of the finality being reached in the matter, the present remit to this Court becomes legally immaterial for this Court adopt a different legal position in the matter. Further, one of the learned Judges of the Division Bench which remitted the matter to this Court presided over another Bench and had taken a contrary decision in the matter in favour of the employees in W.A.No.1133/2014 dated 29.06.2018.

13. In the light of expressing diametrically opposite views in the matter and also in the light of the various other decisions of this Court confirmed in Writ Appeals by various Division Benches, the present view taken by the Division Bench which was the basis for remitting the matter to this Court may not have any material impact in consideration of the matter in question.

14. On the whole, this Court is of the view that these petitioners even otherwise are entitled for grant of the relief. The writ petitions stand allowed accordingly. “



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10. Similar order has been passed by the another learned single Judge of this Court in WP.(MD)No.7885 of 2013 dated 26.06.2013. The W.A.(MD) No.902 of 2015 filed challenging the above order had confirmed the order passed in the Writ Petition. However, the learned Additional Government Pleader for the respondents has insisted only one conditions relied on in para no. 6 of G.O.Ms.No.74 Personnel and Administrative Reforms Department dated 27.06.2013. As stated already, this court has settled the above position and hence there cannot be any quarrel on that score.

11. It is repeatedly insisted by the learned Additional Government Pleader that when there is relaxation of rules involved in any government order, that can be given effect only from the date of issuance of the regularisation of the said Government Order and hence, the services will be regularised only from the date of appointment and not from the date of completion of 10 years of service. Since similarly placed persons have got the benefits of the various orders of this Court which allowed the regularisation of service form the date of completion of 10 years of service, I find no reason to withhold the said benefit to the petitioner herein.



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12. Hence, this Writ Petition is **allowed** and the respondents are directed to regularize the services of the petitioner in the post of Mazdoor with effect from 01.02.1996 i.e. the date on which the petitioner had completed 10 years as Scavenger on daily wages with all consequential and service benefits, after verifying the service particulars. The regularisation order is directed to be passed by the respondents within a period of four weeks from the date of receipt of a copy of this order. No costs.

30.10.2023

Index : Yes

Internet : Yes/No

jrs



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R.N.MANJULA, J.
jrs

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