



W.P.No.28906 of 2017

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2023

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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.28906 of 2017
and
W.MP.No.31126 of 2017

P.Mariappan

... Petitioner

Vs.

1.State of Tamil Nadu
rep. by its Secretary,
Public Works Department,
Fort St. George,
Chennai - 600 009.

2.The Chief Secretary to Government
Personal and Administrative Reforms F Department,
Fort St. Gorge,
Chennai - 600 009.



W.P.No.28906 of 2017

WEB COPY

3.The Chief Engineer and Engineer in Chief (General),
Public Works Department,
Chepauk,
Chennai - 600 005.

4.The Assistant Executive Engineer,
W.R.O. Public Works Department,
Manimuthar Dam Sub Division,
Manimuthar,
Tirunelveli District - 627 421.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the 2nd respondent's order made in G.O.Ms.No.74 P & AR (F) Department dated 27.06.2013 to an extent of paragraph 6 therein is concerned and that of the order of the 3rd respondent made in Letter No.4(1) 22353/2017 dated 09.03.2017 passed by the 3rd respondent to quash the same and consequently direct the respondent to regularise the service of the petitioner on completion of 10 years of service and pay back all service and monetary benefits.



W.P.No.28906 of 2017

For Petitioner : Mr.S.Ashok Kumar

For Respondents: Mr.K.H.Ravikumar
Government Advocate

ORDER

This Writ Petition has been filed to quash the order of the 2nd respondent dated 27.06.2013 to an extent of Paragraph 6 is concerned and the order passed by the 3rd respondent dated 09.03.2017 and consequently, direct the respondent to regularize the service of the petitioner on completion of ten years of service and pay back all service and monetary benefits.

2.The petitioner was appointed as Driver in the 3rd respondent Office on 01.12.1994 based on NMR/Mazdoor and he has been continuously discharging his duties as Driver. As



W.P.No.28906 of 2017

per the policy of the Government, these labourers/NMRs those who have completed 10 years of such causal labourer services have been brought into to be regularized. The petitioner has been completed more than 10 years of service as on 01.12.2004, but the respondent did not consider for regularization. Hence, the petitioner filed W.P.No.39128 of 2016 before this Court and this Court passed an order dated 09.11.2016, directing the 2nd respondent to consider the representation of the petitioner dated 12.08.2016 and pass orders within a period of six weeks. On 09.03.2017, the 1st respondent without considering the length of service of the petitioner rejected his claim and not extended him duty. Further, similarly placed persons have been filed Writ Petitions to quash the G.O.Ms.No.74, P & AR (F) Department, dated 27.06.2013.



W.P.No.28906 of 2017

WEB COPY

3.The learned counsel for the petitioner would submit that the Government issued G.O.Ms.No.22, P & AR, Department, dated 28.02.2006 stating that the 10 years period could be arrived at as on 01.01.2006, since the Government order itself was issued and subsequently, the cut off date prescribed could not be strictly adhered to. Therefore, various proposals were sent for bringing into time scale of pay to all the causal labourers without reference to the crucial date as prescribed and it is on the basis of Government orders were issued bringing into time scale of pay based on G.O.Ms.No.22, but beyond the time stipulated for such regularization fixed therein. Hence, this Writ Petition.

4.The learned Government Advocate would submit that the petitioner had been engaged as temporary daily wages



W.P.No.28906 of 2017

employee under Nominal Muster Roll from 2000 to 2005.

Afterwards, he had been engaged as a Labour by Private Contractors from 2005 to 2011. Further, the petitioner was not recruited through District Employment Exchange and therefore, his daily wages services could not be regularized, as per norms prescribed in G.O.(Ms) No. 22, Personal and Administrative Reforms (F) Department, dated 28.02.2006. Further, the services of daily wages employees shall be regularized on completion of 10 years of services as on 01.01.2006. Accordingly, the petitioner is not eligible for regularization based on the Government Orders. Therefore, the request of the petitioner to regularize his Nominal Muster Roll Services could not be complied in accordance with Law.

5.Heard the learned counsel appearing on either side and perused the materials available on record.



W.P.No.28906 of 2017

WEB COPY

6. On a perusal of the documents, it is seen that the petitioner had been engaged as temporary daily wages employee under Nominal Muster Roll from 2000 to 2005. Afterwards, he had been engaged as a Labour by Private Contractors from 2005 to 2011. The petitioner has already filed W.P.No.39128 of 2016 before this Court and this Court passed an order dated 09.11.2016, directing the respondents to consider the claim of the petitioner and pass orders within a period of six weeks. On 09.03.2017, the 1st respondent without considering the length of service of the petitioner rejected his claim and not extended him duty. As per norms prescribed in G.O.(Ms) No. 22, Personal and Administrative Reforms (F) Department, dated 28.02.2006, the daily wages services of the petitioner could not be regularized. Further, the petitioner was not recruited through



W.P.No.28906 of 2017

WEB COPY

District Employment Exchange. Therefore, the request of the petitioner to regularize his Nominal Muster Roll Services could not be complied in accordance with Law.

Accordingly, this Writ Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

15.11.2023

Index : Yes/No
Speaking order:Yes/No
Neutral citation:Yes/No
mps

To

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State of Tamil Nadu,
Public Works Department,
Fort St. George,
Chennai - 600 009.



W.P.No.28906 of 2017

WEB COPY

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Chepauk,
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WEB COPY



W.P.No.28906 of 2017

V.BHAVANI SUBBAROYAN, J.

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W.P.No.28906 of 2017
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