



W.P(MD)No.12584 of 2020

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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DATED : 20.03.2023

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)No.12584 of 2020

S.Premanand

... Petitioner

**Vs.**

1.The Secretary,  
Animal Husbandry,  
Dairying and Fisheries Department,  
Secretariat, Chennai – 600 009.

2.The Director,  
Fisheries Department,  
Nandanam,  
Chennai – 35.

3.The Deputy Director,  
Fisheries Department (Regional),  
Nagercoil,  
Kanyakumari District – 629 001.

4.The Assistant Director of Fisheries,  
Simon Colony,  
Colachel,  
Kanyakumari District – 629 251.

... Respondents



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**Prayer :** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent i.e the Director of Fisheries Department Chennai in Na.Ka.No.18855/M3/2009 dated 18.11.2019 and quash the same and consequently direct the respondents to appoint petitioner as a regular time scale taking in to account of seniority and qualification and confer all consequential attendant and monetary benefits.

For Petitioner : Mr.M.Saravana Kumar

For Respondents : Mr.K.Balasubramani,  
Spl. Government Pleader.

### **ORDER**

Heard the learned counsel on either side.

2.The basic facts are not in dispute. The petitioner was sponsored by the employment exchange for the post of Fisherman in Fish Farm Development Agency in the year 1998. He was given break-in-service and thereafter, re-appointed. Since he did not complete ten years of service as on 01.01.2006, he was not given the benefit of regular time



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scale by virtue of G.O.(Ms)No.74, Personal and Administrative Reforms Department, dated 27.06.2013. The said agency was also subsequently abolished. The petitioner therefore filed W.P.(MD)No.22872 of 2008 for directing the respondents to appoint him in any suitable vacancy and to regularize his service from the date of initial appointment. Vide order dated 19.06.2013, the writ petition was disposed of in the following terms:-

*“4. Be that as it may, the fact remaining that the petitioner was appointed as Fisherman through the Employment Exchange with the SSLC qualification possessed by him and he was allowed to work on daily-wage basis for six years, of course, with interruption in service due to frequent ousters and re-joining in the post. The appointment of the petitioner through Employment Exchange appeals to this Court coupled with the fact that totally, he has rendered service for 6 years and 4 months. Having regard to the same, on humanitarian grounds, this Court deems it just and proper to direct the respondents to give preference to the petitioner in the event any future vacancy, either daily-wages or permanent, arises against the last-grade servant post.”*



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3.The department took the stand that the petitioner can only be given appointment as temporary watchman. The petitioner therefore filed W.P.(MD)No.33635 of 2015. Vide order dated 16.10.2015, the writ petition was disposed of by directing the authorities to consider the petitioner's representation. The petitioner filed one more writ petition in W.P.(MD)No.23279 of 2017 and the said writ petition was disposed of on 28.03.2019 by directing the authorities to dispose of the petitioner's representation on merits and in accordance with law. Pursuant thereto, the impugned order dated 18.11.2019 came to be passed rejecting the petitioner's request. Challenging the same, the present writ petition has been filed.

4.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.

5.The respondents have filed a detailed counter affidavit and the learned Special Government Pleader took through its contents.



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6.I carefully considered the rival contentions and went through the materials on record. The relief of regularization cannot be granted as a matter of right. The petitioner will have to establish his case with reference to some government orders or legal provisions. The learned counsel for the petitioner placed reliance on G.O.(Ms)No.475, Personal and Administrative Reforms Department, dated 02.05.1985 in respect of his contention that the petitioner's request could not have been rejected on the ground that he was over-aged. He pointed out that as per the said government order, what has to be reckoned and taken note of is the candidate's age, when he was sponsored by the employment exchange and not the age when he was considered for regularization. This contention is no doubt attractive but then, this contention was very much available to the petitioner when he filed W.P.(MD)No.22872 of 2008. I cannot forget the fact that this is the petitioner's fourth writ petition. The first writ petition was filed by him in the year 2008 and it was disposed of on 19.06.2013. The prayer in the said writ petition was also for regularization from the date of initial appointment. The direction given by this Court in the said writ petition has already been extracted.



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Therefore, the petitioner cannot improve his case. As per the direction given by this Court, the petitioner has already been engaged as a temporary watchman. The petitioner should remain content with that. In fact, in my view, the subsequent writ petitions themselves were not maintainable. Even though in the impugned order, the order dated 19.06.2013 made in W.P.(MD)No.22872 of 2008 may not have been cited, I would sustain the impugned order on that basis. Since the petitioner has already been re-engaged as a temporary watchman, he shall be continued in the said capacity till he reaches the age of superannuation subject to the petitioner not indulging in any act of misconduct. So long as the petitioner conduct himself properly, he shall be continued in the said capacity.

7.The writ petition is dismissed accordingly. No costs.

**20.03.2023**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes/ No  
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**G.R.SWAMINATHAN, J.**

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