



W.P.(MD).No.16179 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.16179 of 2016

and

W.M.P.(MD).Nos.11828 and 11829 of 2016

P.Ravichandran

... Petitioner

Vs.

1. Government of Tamil Nadu,
Represented by Principal Secretary to Government,
Highways and Minor Ports Department,
Secretariat,
Chennai – 600 009.

2. The Principal Director,
Highways Department,
Chennai – 05.

3. The Superintending Engineer,
Highways and Rural Works Department,
Tiruchirappalli – 620 020.

4. The Divisional Engineer,
Highways and Rural Works Department,
Pudukottai.

5. The Assistant Divisional Engineer,
(Construction and Maintenance)
Highways and Rural Works Department,
Pudukottai.

... 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 relating to the orders in (1) G.O.(2D)No.25, Highways and Minor Ports (H.M.2) Department dated 27.10.2015 of the first respondent and (2) Pro.No. 2408/2015/B1 dated 2.11.2015 of the fourth Respondent (3) Pro.Lr.No. 513/2015/A2 dated 2.11.2015 of the fifth Respondent, to quash the Government order dated 27.10.2015 insofar it relates to the date of effect of regularization from 9.11.2007 and to quash the other orders insofar they relate to the appointment of the petitioner as Salai Paniyalar and to issue consequential directions to the respondents to regularize the services of the petitioner from the date of completion of 5 years of service on daily wage basis i.e. 10.10.1987 and to absorb him as Office Assistant notionally from that date and allow him to continue in service beyond 31.08.2016 till 31.08.2018 and to grant consequential benefits.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.P.Thambidurai,
Government Advocate.

ORDER

This Writ Petition is filed to quash the Government Order dated 27.10.2015 and other consequential orders, insofar it relates to the date of effect of regularization from 09.11.2007 and to appoint the petitioner as Salai Paniyalar with consequential relief of regularization on completion of 5 years



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of service on daily wage basis i.e. 10.10.1987 and to absorb him as Office Assistant notionally from that date and allow him to continue in service until he completes the age of 60 years and to grant consequential benefits.

2. The petitioner was appointed as Watchman on daily wages basis on 10.10.1982 in Highways Department. Since the petitioner's service was not regularized, he was not absorbed in regular establishment till 1995. Hence, the petitioner filed O.A.No.881 of 1995 before the Tribunal and the said O.A was transferred to the Hon'ble Court and renumbered as W.P.No.15274 of 2006. This Court vide order dated 09.01.2008, allowed the Writ Petition and directed the authorities to extend the benefits of G.O.Ms.No.22 P&AR Department dated 28.02.2006 to regularize the services with effect from the date on which other similarly placed persons were regularized and to pass appropriate orders within six months.

3. The respondents have not passed any order. Therefore, the petitioner was constrained to file Contempt Petition No.700 of 2015. When the said Contempt Petition was taken up for hearing, the Government issued G.O.(2D)No.25, Highways and Minor Ports (HM2) Department dated 27.10.2015, regularizing the service from 09.11.2007, by following



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G.O.Ms.No.265 dated 09.11.2007, by which the services of similarly placed Daily Wage employees in the Highways Department were regularized. Consequential orders were issued by the Divisional Engineer, Highways, Pudukottai vide proceedings dated 02.11.2015.

4. The contention of the petitioner is that since he is eligible to be regularized on completion of 5 years, the respondents declined the same in the impugned Government Order. Therefore, the petitioner is before this Court to quash the Government Order to the extent where it has fixed the date of regularization. The further contention of the petitioner is that on completion of 5 years, the petitioner is entitled to absorption in the regular establishment with consequential relief and time bound promotion in the said service, thereby, the petitioner is seeking to absorb him as Office Assistant and also to direct the respondents to allow the petitioner to retire on completion of 60 years. However, the respondents have declined the same and allowed the petitioner to retire on completion of 58 years of age.

5. The respondents have filed a counter stating that this Court has directed the authorities to regularize the service of the petitioner on the basis of G.O.(Pt).No.22 P&AR Department dated 28.02.2006 and the based on the



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direction by invoking the G.O.Ms.No.22, the petitioner was regularized, hence the respondents prayed to dismiss the writ petition.

6. It is seen that the Government by invoking the said Government Order has regularized several persons and has granted prospective regularization and not retrospective regularization to any person. The claim of the petitioner cannot be considered for one or other reason, since the 10 years service would be considered as a qualifying service for regularization, on completion of 10 years, the petitioner is coming within the zone of consideration for regularization. Therefore, after completion of five years the petitioner has not come within the zone of consideration and hence the claim of the petitioner is beyond the scope of regularization.

7. The petitioner cannot claim as a right to regularize his service from the date of his appointment. Moreover, if the claim of the petitioner is entertained, it will lead to opening a pandora box. Therefore, the claim of the petitioner cannot be entertained.



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8. With the above observations, this Writ Petition is dismissed. No costs.

Consequently, connected miscellaneous petitions are closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

- 1.The Principal Secretary to Government,
Government of Tamil Nadu,
Highways and Minor Ports Department,
Secretariat, Chennai – 600 009.
- 2.The Principal Director,
Highways Department,
Chennai – 05.
- 3.The Superintending Engineer,
Highways and Rural Works Department,
Tiruchirappalli – 620 020.
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S.SRIMATHY, J.

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