



W.P(MD)No.22274 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.10.2023

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.22274 of 2023

K.Murugan

... Petitioner

Vs.

- 1.The State Government of Tamil Nadu,
Represented by its Principal Secretary to Government,
Personal and Administrative Reform (F) Department,
Secretariat, Fort St. George,
Chennai-9.
- 2.The Additional Chief Secretary to Government,
Rural Development and Panchayat (E7 Department),
Secretariat, Fort St. George,
Chennai-9.
- 3.The Director / Commissioner,
Rural Development and Panchayat,
Saidapet, Chennai-15.
- 4.The District Collector,
Sivagangai District,
Sivagangai.
- 5.The Commissioner,
Ilayangudi Panchayat Union,
Ilayangudi,
Sivagangai District.



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6. The Block Development Officer,
Ilayangudi,
Sivagangai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent in letter No.22139/புஅ7/2018-1, dated 02.01.2019 served to the petitioner through sixth respondent by its proceedings in Na.Ka.No.அ1/304/2019, dated 18.02.2019 quash the same consequently direct the second respondent to regularize the service of the petitioner as Watchman or Masalchi with time scale of pay with effect from 14.11.1996 with all attended benefits to the petitioner.

For Petitioner : Mr.R.Devaraj

For R-1 to R-4
& R-6 : Mr.Veera Kathiravan
Additional Advocate General
Assisted by
Mr.T.Villavan Kothai
Additional Government Pleader

For R-5 : Mr.Amjad Khan
Government Advocate



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ORDER

The present writ petition has been filed by a Full Time Night Watchman working on a daily wage basis in the cement godown of the fifth respondent Panchayat Union challenging an order, wherein his request for regularisation of his services has been rejected.

2. According to the learned Counsel appearing for the writ petitioner, the writ petitioner was appointed as a Night Watchman on 14.11.1996 in the cement godown of the fifth respondent Panchayat Union. Later on 01.06.1998, the said post was converted into a Full Time Watchman and he was paid daily wages. After completing continuous period of ten years of service, the petitioner had made an oral request to the fifth respondent to regularise his services with effect from the year 2008 in the sanctioned post of Watchman. Thereafter, the petitioner has sent several representations to the authorities to regularise his services.

3. The petitioner had relied upon G.O(Ms)No.22, Personnel and Administrative Reforms (F) Department, dated 28.02.2006 to regularise his



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services. The petitioner had filed W.P(MD)No.8076 of 2018 seeking a Mandamus to consider his representation for regularisation of his services. The said writ petition was disposed of on 17.04.2018, directing the authorities to consider his representation, within a period of twelve weeks from the date of receipt of a copy of the order. In compliance with the said order, the present impugned order has been passed by the second respondent herein on 02.01.2019. In the impugned order it has been pointed out that the Government is considering regularisation of all the daily wage employees *en masse* and therefore, his individual request for regularisation cannot be considered. This order is under challenge in the present writ petition.

4. The learned Counsel appearing for the writ petitioner had contended that when the services of the writ petitioner are eligible to be regularised under G.O(Ms)No.22, dated 28.02.2006, the respondents herein cannot reject the said request on the ground that they are awaiting the orders of the State Government for *en masse* regularisation of the daily wage workers. He further pointed out that as per G.O(Ms)No.22, dated 28.02.2006, he has completed ten years of service on 31.05.2008 and his services have to be regularised from the said date onwards.



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5. Per contra, the learned Additional Advocate General assisted by the learned Additional Government Pleader appearing for the respondents 1 to 4 and 6 had contended that the petitioner has not completed ten years of service as on 01.01.2006 and hence, he is not eligible to get the benefits under G.O(Ms)No.22, dated 28.02.2006. Hence, he prayed for dismissal of the writ petition.

6. I have carefully considered the submissions made on either side and perused the materials available on record.

7. It is not in dispute that the petitioner is working as a Full Time Watchman on daily wage basis from 01.06.1998 onwards. The impugned order does not consider whether the petitioner is eligible for regularisation under G.O(Ms)No.22, dated 28.02.2006 or not. It has simply rejected the request of the petitioner on the ground that State is contemplating an *en masse* regularisation and hence, his individual request for regularisation cannot be considered.



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8. Whether the petitioner's services are eligible to be regularised under G.O(Ms)No.22, dated 28.02.2006 or under G.O(Ms)No.74, Personnel and Administrative Reforms (F) Department, dated 27.06.2013 has to be considered by the authorities concerned. A perusal of the typed set of papers indicate that the P.A to the fourth respondent herein has addressed a communication to the writ petitioner on 28.01.2022 to the effect that the petitioner's request for regularisation has been forwarded to the second respondent herein through the third respondent. Therefore, it is clear that the petitioner's request for regularisation is now pending with the second respondent herein, who has chosen to pass the present impugned order.

9. In view of the above said facts, the order impugned in the present writ petition is set aside. The matter is remitted back to the file of the second respondent herein to consider the request of the writ petitioner for regularisation, in the light of G.O(Ms)No.74, dated 27.06.2013 on merits and in accordance with law, within a period of twelve (12) weeks from the date of receipt of a copy of this order.



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10. With the above said observation, this writ petition stands disposed of.

There shall be no order as to costs.

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NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

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Secretariat, Fort St. George,
Chennai-9.
- 2.The Additional Chief Secretary to Government,
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- 3.The Director / Commissioner,
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Sivagangai.



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5.The Commissioner,
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R.VIJAYAKUMAR, J.

BTR

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