



W.P.(MD).Nos.19508 and 19509 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 08.06.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).Nos.19508 and 19509 of 2016
and
W.M.P.(MD).Nos.14078 and 14079 and 2016**

W.P.(MD).No.19508 of 2016:

Karuppayee

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Public Works Department,
Secretariat,
Fort St.George,
Chennai – 9.

2.The Executive Engineer,
Public Works Department,
Building (Construction and Maintenance) Sub Division,
Madurai – 2.

... Respondents

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 pertaining to the order passed by the first respondent in his proceedings in Letter No.3821/C2/2008-13 dated 21.6.2011 and the consequent order in



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Letter No. 10569/C2/2016-2 dated 23.8.2016 and quash the same as illegal and consequently direct the respondents to regularize the petitioner by relaxing the relevant rules as done to similar employees in G.O.Ms.No.134, Public Work(C2) Department, dated 7.5.2010 within stipulated time.

W.P.(MD).No.19509 of 2016:

Joseph

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Public Works Department,
Secretariat,
Fort St.George,
Chennai – 9.

2.The Executive Engineer,
Public Works Department,
Building (Construction and Maintenance) Sub Division,
Madurai – 2.

... Respondents

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 pertaining to the order passed by the first respondent in his proceedings in Letter No.3821/C2/2008-13 dated 21.6.2011 and the consequent order in Letter No. 10569/C2/2016-2 dated 23.8.2016 and quash the same as illegal and consequently direct the respondents to regularize the petitioner by relaxing the relevant rules as done to similar employees in G.O.Ms.No.134, Public Work (C2) Department, dated 7.5.2010 within stipulated time.



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(In Both Writ Petitions):

For Petitioner : Mr.T.A.Ebenezer

For Respondents : Mr.M.Lingadurai,
Special Government Pleader.

COMMON ORDER

The relief sought for by the petitioners in these Writ Petitions are one and the same. Hence, a common order is passed.

2. The Writ Petitions are filed to quash the order dated 21.6.2011 and the consequent order dated 23.8.2016 and consequently direct the respondents to regularize the petitioners by relaxing the relevant rules as done to similar employees in G.O.Ms.No.134, Public Work (C2) Department, dated 7.5.2010.

3. The petitioners were appointed under the second respondent Department from 2000 onwards. The contention of the petitioners is that they have completed more than 10 years of service in the respondent Department. However, the respondents did not regularize the service of the petitioners but also ousted the petitioners from service. Aggrieved over the same, the



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petitioners have filed W.P.(MD)Nos.7566 to 7569 and 7277 of 2005 along with some other persons. The learned Single Judge vide order dated 29.11.2010 has considered the claim of the petitioner and has specifically recorded in paragraph no.7 of the order that the petitioners name are found in the NMR list.

The relevant portion is extracted hereunder:

7. Today, the NMR register of the third respondent has been produced, which shows that the petitioners worked as NMRs' under the third respondent. It is also stated that one such person, who worked along with the petitioners by name Amalraj, has been regularized by the Government. This fact may also be taken into account by the Government”.

4. However, the respondents have passed the impugned order stating that the petitioners name are not there and there is no evidence in the relevant records. When the Learned Single Judge has specifically called for records and has found the petitioners name in the NMR list, then the contention of the respondents that there is no evidence, cannot be accepted. The respondents cannot be allowed to state that the petitioners name are not there.

5. The next contention of the respondents is that the petitioners as on date are not in service, therefore, the regularization cannot be considered. This contention also cannot be accepted, since the respondent himself ousted the



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petitioners from service by stating that the petitioners have not completed ten years of service. Therefore, both the grounds raised by the respondents are not sustainable.

6. Therefore, this Court is inclined to interfere with the impugned order and the impugned order is quashed. The respondents are directed to consider the case of the petitioners and pass appropriate order. If the petitioners are not regularized, then the respondents are directed to appoint the petitioners as new entrant. The said exercise shall be completed within a period of six (6) weeks from the date of receipt of a copy of this order.

7. In view of the above, the Writ Petitions are allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

08.06.2023

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



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To

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S.SRIMATHY, J.

Nsr

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