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W.P.No.5713 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2024

CORAM

THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.P.No.5713 of 2020

V.Poongodi

...Petitioner

Vs.

1. State of Tamil Nadu
rep. by its Principal Secretary to
Government Public Works (C2) Department,
Secretariat,
Chennai -600 009.
2. The Engineer -in-Chief
Water Resources Department and Chief
Engineer (General) Public Works Department,
Chennai - 600 005.
3. The Engineer-in-Chief
(Buildings) and Chief Engineer (Buildings),
Public Works Department,
Chennai - 600 005.
4. The Executive Engineer (Buildings Construction),
Public Works Department,
Salem.
5. The Assistant Executive Engineer,
Public Works Department,
Building Construction Sub Division,
Kollapatti,
Salem -30.

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to



W.P.No.5713 of 2020

the order passed by the 4th respondent in Proceedings in Letter No. 1595/2020/NiU/dated 31.01.2020, quash the same and direct the respondents to regularize the service of the petitioner.

For Petitioner : Mr.M.P.Rajavelayutham
for Mr.S.Duraisamy

For Respondents : Mr.A.M.Ayyadurai
Government Advocate
for R1 to R5

ORDER

The instant Writ Petition has been filed challenging the impugned order dated 31.01.2020 in and by which, the petitioner's prayer for regularization was rejected.

2.The learned counsel appearing for the petitioner would vehemently submit that, the petitioner joined in the service of the 4th respondent during 1998 as Mazdoor Grade I, and that he was working under the control of the 5th respondent. It is his submission that the petitioner has completed ten years of service as on 31.12.2009. However, while regularizing similarly placed other nominal muster roll employees, the petitioner was not regularized on the ground that subsequent to the date of eligibility, he abandoned and left the service. It is the submission of the learned counsel for the petitioner that the abandonment of service will have no impact upon the regularization, as the Department did not initiate any disciplinary proceedings against the petitioner for the alleged



abandonment of service. Hence, the learned counsel would submit that the impugned rejection order is liable to be interfered with.

3.*Per contra*, the learned Government Advocate would vehemently contend that, though the Government has regularized as many as 3407 NMRs/Daily rated casual employees, since the petitioner was absent for more than eight years, he was not eligible to be regularized, and it is the further contention of the learned Government Advocate that the regularization is not a matter of right, and that the Government, on the basis of a Scheme has regularized 3407 employees, whereas the petitioner did not come within the Scheme, therefore, there is no merits in the petition and liable to be dismissed.

4.I have given my anxious consideration to either side submissions.

5.While looking at the recommendations of the 5th respondent, as rightly submitted by the learned counsel for the petitioner, there is a specific reference that the petitioner is eligible to be regularized, and the petitioner's name was also recommended in the year 2010. But, to consider the similar recommendations, viz., G.O.Ms.No.233, Public Works (C2) Department, dated 06.12.2019, a Screening Committee was appointed consisting of the Secretaries and Engineering -in- Chief of the Public Works Department, and the said



W.P.No.5713 of 2020

Committee, after screening all the eligible NMRs, have regularized the eligible NMR from among the recommended NMRs.

6. While formulating Scheme for regularization, the Government has taken up a policy decision not to regularize those persons, who died, superannuated and absented from duty. It is in this background, since the petitioner was absent from duty for more than eight years, his case was not considered. When the Government took a policy decision not to regularize the employees against whom, those who abandoned service, while regularizing the NMRs under the Writ jurisdiction, this Court cannot go into the said aspect. Furthermore, the petitioner could not establish any arbitrariness, irrationality or discrimination in such rejection. Therefore, I do not find any merits in this Writ Petition.

In the result, this Writ Petition stands dismissed. No costs.

14.10.2024

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

To

1. The Principal Secretary to

<https://www.mhc.trr.gov.in/judis>



W.P.No.5713 of 2020

Government Public Works (C2) Department,
State of Tamil Nadu,
Secretariat,
Chennai -600 009.

2. The Engineer -in-Chief,
Water Resources Department and Chief Engineer (General),
Public Works Department,
Chennai - 600 005.
3. The Engineer-in-Chief
(Buildings) and Chief Engineer (Buildings),
Public Works Department,
Chennai - 600 005.
4. The Executive Engineer (Buildings Construction),
Public Works Department,
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Public Works Department,
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W.P.No.5713 of 2020

C. KUMARAPPAN, J.

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W.P.No.5713 of 2020

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