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W.P.No.8484 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2024

CORAM

THE HONOURABLE MR.JUSTICE **D. BHARATHA CHAKRAVARTHY**

W.P.No.8484 of 2024
and WMP.Nos.9430 & 9432 of 2024

1. C. Eraniappan
2. K. Padmanaban
3. M. Subramanian
4. R. Palani
5. E. Sukumar

... Petitioners

-Vs-

1. The Director
Arignar Anna Zoological Park,
Vandaloor,
Chennai 600 048.
2. Principal Chief Conservator of Forest
(Vanathurai Thalaivar)
Velachery Main road,
Kannigapuram,
Chennai 600 032.
3. The Additional Chief Secretary
Environment & Forest Department
Government of Tamil Nadu
Fort St.George,
Chennai 600 009.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus by calling for the records in the impugned proceedings Na.Ka.En.2937/1996/U3 dated



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23.03.2022 issued by the 2nd respondent along with the annexure letter No.17240/FR.5/2019-10 dated 10.01.2022 of the 3rd respondent and quash the same and to direct respondents to grant the petitioners the monetary arrears from 01.04.1991 to 14.05.2004 as a consequence of our regularisation from 01.04.1991 on par with our equals M/s.S.Palani and N.Balakrishnan.

For Petitioners : Mr.S.Kumaraswamy

For Respondents : Mr.T.Seenivasan
Special Government Pleader

ORDER

This writ petition is filed for issuance of Writ of Certiorarified Mandamus by calling for the records in the impugned proceedings Na.Ka.En.2937/1996/U3 dated 23.03.2022 issued by the 2nd respondent along with the annexure letter No.17240/FR.5/2019-10 dated 10.01.2022 of the 3rd respondent and quash the same and to direct respondents to grant the petitioners the monetary arrears from 01.04.1991 to 14.05.2004 as a consequence of their regularisation from 01.04.1991 on par with their equals M/s.S.Palani and N.Balakrishnan.

2. The case of the petitioners is that the petitioners are all now regularised from their initial date of appointment pursuant to the direction of this Court in W.P.No.94 of 2012 dated 17.08.2012. In the said writ petition, the



respondents were directed to grant regularisation with effect from 01.04.1991 with all benefits. Therefore, the respondents ought to have granted the monetary benefits also from 01.04.1991 to 14.05.2004. The respondents even preferred W.A.No.2473 of 2012 and the Division Bench of this Court has confirmed the order in the writ petition. It is also the contention of the petitioners that in respect of similarly situated employees all the benefits have been paid. In spite of the same, the respondents have not granted the monetary benefits, hence the petitioners are before this Court.

3. The writ petition is resisted by the respondents by filing a counter affidavit.

4. According to the respondents, while granting regularisation to the writ petitioners, the following rules came to be relaxed and it is essential to extract the Tabular Column at para 7 of the counter affidavit, which reads as follows:-

<i>Sl. No.</i>	<i>Name of the worker</i>	<i>Post in which appointment made</i>	<i>Rules relaxed</i>
1.	C. Eraniappan	Animal Keeper, Arignar Anna Zoological Park	Rule 3 (method of appointment), Rule 4 (Reservation of Appointment, Rule 6(a) (age qualification) of The Special rules for Tamil Nadu Zoo Subordinates Services.
2.	E.Sugumar	Animal Keeper,	Rule 3, Rule 4, Rule6(a) of The Special



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Sl. No.	Name of the worker	Post in which appointment made	Rules relaxed
		Arignar Anna Zoological Park	Rules for Tamil Nadu Zoo Subordinates Services.
3.	M.Subramaniam	Sweeper Cum Scavenger, Arignar Anna Zoological Park	Rule 3, Rule 4, Rule 6(a) of The Special Rules for Tamil Nadu Zoo Subordinate Services.
4.	R.Palani	Sweeper Cum Scavenger, Arignar Anna Zoological Park	Rule 3, Rule 4, Rule 6(a) of The Special Rules for Tamil Nadu Zoo Subordinate Services.
5.	K. Padmanabhan	Sweeper Cum Scavenger, Arignar Anna Zoological Park	Rule 3, Rule 4, Rule 6(a) of The Special Rules for Tamil Nadu Zoo Subordinate Services.

5. Therefore, as per Section 28 (2) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 whenever regularisation is granted by relaxing the rules, the individuals will not be entitled for monetary benefits retrospectively and they have to be granted monetary benefits only from the date of order.

6. The learned counsel taking this Court to the relevant paragraphs of the affidavit and the earlier order of this Court and the counter affidavit would reiterate the submissions made in the writ petition as well as the counter affidavit.



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7. Heard both sides and perused the materials available on record.

8. Firstly, in this case the reliance placed upon Section 28 (2) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 is misplaced. The entire Section 28 (2) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 is extracted as hereunder:-

"A person who commences probation under sub-section (1) shall also be eligible to draw increments in the time scale of pay or pay band applicable to him from the date of commencement of his probation. Where commencement of probation is ordered from a date earlier than the date of the order and if this had not been enabled by relaxation of any rule, he shall draw increments, including arrears, in the time scale of pay or pay band applicable him from such earlier date. The appointing authority shall include a provision to this effect while issuing orders in all such cases".

9. It can be seen that the same relates to the date of commencement of probation of persons of first appointment temporarily. Therefore, the same cannot be extrapolated to the instant situation. It only says that in the case of first appointment, if the same is filled up by way of regularisation of temporary service then the same would be interpreted as the date of commencement of probation. Therefore, the reliance placed by the respondents with reference to



the same is misplaced. Secondly, the rights of the parties in the instant case is governed by the judgment inter parties. The petitioners are regularised pursuant to the direction of this Court. It is essential to extract paragraph No.15 of W.P.No.94 of 2012 dated 17.08.2012 which reads as follows:-

"15. In the facts and circumstances of the case, I am of the view that the petitioners are entitled to regularisation with effect from 01.04.1991 when the juniors to the petitioners were regularised with all monetary benefits. Hence, a direction is issued to the 1st respondent to regularise the service of the petitioners with effect from 01.04.1991 with all benefits in the light of the order dated 26.10.2009 in W.P.No.9993 of 2004, the order dated 04.03.2011 in W.A.No.338 of 2011, G.O.Ms.No.240, Environment and Forests Department dated 19.04.1990 and also the order dated 27.03.1991 of the 3rd respondent regularising the service of 72 casual workmen with effect from 01.04.1991. The 1st respondent is directed to undertake the aforesaid exercises within a period of twelve weeks from the date of receipt of a copy of this order. The writ petition is disposed of on the above terms. No costs."

10. The above judgment is also confirmed by order dated 06.11.2012 in W.A.No.2473 of 2012 and the operative portion of the order reads as follows:-

"3. In the light of all these facts, the learned single Judge directed regularisation of the services of the respondents herein, in our view rightly so. We do not find any merits in this appeal, which is accordingly dismissed. However, there shall be no order as to costs. Consequently, M.P.No.1 of 2012 is closed"



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11. Even the Special Leave Petitions filed against the said judgment were also dismissed by judgment dated 08.10.2023 in SLP Civil Nos.18248 of 2013. Therefore, the respondents cannot plead otherwise. A perusal of the paragraph No.15 in W.P.No.94 of 2012 dated 17.08.2012 as cited supra would be very clear that the petitioners are entitled to all the benefits which would be inclusive of monetary benefits also. Therefore, the reasoning given by the respondents in their counter not only is incorrect but amounts to disobedience of the order of this Court. In view thereof, this writ petition deserves to be allowed and as such it is allowed on the following terms:-

(1) The impugned order dated Na.Ka.En.2937/1996/L3 dated 23.03.2022 issued by the 2nd respondent along with the annexure letter No.17240/FR.5/2019-10 dated 10.01.2022 of the 3rd respondent shall stand quashed.

(2) The respondents are directed to grant the petitioners all the monetary arrears from 01.04.1991 to 14.05.2004 within a period of 12 weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are also closed.

21.06.2024



Neutral Citation: Yes/No
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