



W.P.No.39266 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	12/12/2023
Delivered on	20/6/2024

C O R A M

THE HONOURABLE Dr.JUSTICE D.NAGARJUN

Writ Petition No.39266 of 2015

G. Raju ... Petitioner

Vs

1. Tamil Nadu Pollution Control Board
rep. By its Chairman
No.76 Mount Road
Guindy
Chennai 600 032.

2. The Member Secretary
Tamil Nadu Pollution Control Board
No.76 Mount Road
Guindy
Chennai 600 032.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a writ of declaration declaring that the order of the second respondent bearing Memo No.TNPCB/Per/P5/022078/2014 dated 23/10/2014 as illegal, arbitrary, contrary to law and consequently, direct the respondents to regularise the services of the petitioner from 4/10/1996



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being the date of initial engagement in the post of General Assistant as done in the case of J.Balakumar and five others vide Proceedings No.TNPCB/P7/002970/2011 dated 28/1/2012.

For petitioners ... Mr.Balan Haridas

For respondents ... Mr.Vijayakumari Natarajan

ORDER

This writ petition has been filed for the issuance of a writ of declaration the order of the second respondent bearing Memo No.TNPCB/Per/P5/022078/2014 dated 23/10/2014 and consequently, direct the respondents to regularise the services of the petitioner from 4/10/1996 being the date of initial engagement in the post of General Assistant as done in the case of J.Balakumar and five others vide Proceedings No.TNPCB/P7/002970/2011 dated 28/1/2012.

2. The facts leading to the disposal of the writ petition are as follows:-

The petitioner has registered his name in Employment Exchange.



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His name was sponsored by the Employment Exchange to the respondent Tamil Nadu Pollution Control Board for the post of General Assistant.

Accordingly, he joined the services of the respondent Pollution Control Board with effect from 4/10/1996 on consolidated wages. Similarly, many others were also engaged on consolidated wages. The petitioner and similarly placed persons have been requesting the respondent Board for regularising their services and in response to that the respondent Board has been regularising the services on a gradual manner. Ultimately, the services of the petitioner were regularised, vide, order dated 28/10/1999. However, the monetary benefit was given only from 1/11/1999.

3. Though the petitioner has joined the services with effect from 4/10/1996, his services were regularised only with effect from 28/10/1999. The petitioner has submitted representations to regularise the services not from 28/10/1999 but from 4/10/1996. The petitioner has cited examples of one S.Aruldas and others whose services were regularised from the date of their initial appointments. However, the petitioner has sent a representation dated 16/6/2014 to the second respondent. In response to that the second respondent has replied that



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regularisation has been granted to other employees, who had obtained orders from the High Court. Being aggrieved, the petitioner has approached this Court in W.P.No.19822 of 2012. Vide, order dated 6/1/2014, this Court had set aside the order of the second respondent dated 1/6/2012 and directed the respondents to consider the claim afresh. But the second respondent had rejected the case of the petitioner on 23/10/2014, stating that the service rendered on consolidated wages cannot be made applicable, as per the judgment of the Hon'ble Supreme Court in S.L.P.(C) No.5687/2014 in C.A.Nos.2726 – 2729 of 2014. Aggrieved by the same, present writ petition is filed.

4. The Member Secretary, Tamil Nadu Pollution Control Board, Chennai, has filed counter affidavit on behalf of the respondents, wherein it is stated that after accepting the order of regularisation with effect from 28/10/1999, petitioner is estopped from making such a claim that too after fifteen years. A bare perusal of the Environment & Forest Department dated 5/3/2014, it is crystal clear that mere making on badly or casual employment does not give them the right to claim regularisation. When that being so, petitioner is not entitled to claim retrospective regulation.



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5. Heard Mr.Balan Haridas, learned counsel for the petitioner and Mrs.Vijayakumari Natarajan, learned counsel for the respondents.

6. It is submitted by the learned counsel for the petitioner that first respondent Board has absorbed the services of many similarly placed persons from the date of their initial appointment and not from the date of issuing the proceedings. The petitioner has mentioned the names of six Field Assistants, viz., J.Balakumar, S.Dhanraj, T.Devarajan, R.Palani, S.Rajaraman and C.M.Padmavathi whose services were regularised from the date of their initial engagement. The petitioner has also submitted that first respondent has also regularised the services of J.Balakumar and five others from the date of their initial engagement. It is submitted further by the learned counsel for the petitioner that not regularising the petitioner's services from the date of initial engagement amounts to discrimination and violative of Articles 14 and 16 of the Constitution of India.

7. It is submitted by the learned counsel for the petitioner that though the petitioner was initially appointed with effect from 4/10/1996, on consolidated basis. His services were regularised only from 1/11/1999



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and that the petitioner was discriminated while regularising the services as the services of similarly placed employees were regularised with effect from their initial dates of engagement.

8. To substantiate his case, learned counsel appearing for the petitioner has cited the decision of a Hon'ble Division Bench of this Court in **1. *TAMIL NADU POLLUTION CONTROL BOARD, rep. BY ITS CHAIRMAN, 76 MOUNT SALAI, GUINY, CHENNAI 600 032 AND ANOTHER Vs. M.AMUTHASELVAN (W.A.Nos.1720, to 1722 and 1724 of 2023).***

9. Learned Counsel appearing for the respondents on the other hand submitted that as per the order passed by the Hon'ble Supreme Court in S.L.P.(C) No.5687 of 2014, services of the petitioner cannot be regularised with effect from the date of their initial engagement. This Court, while considering the similar situation has passed orders against the respondent Pollution Control Board directing to regularise the services of the employees, who were similarly placed to that of the petitioner.



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10. In W.P.No.4951 of 2017, vide, order, dated 20th September 2023, between ***P.Lakshmi and 1. THE TAMIL NADU POLLUTION CONTROL BOARD, rep. BY ITS CHAIRMAN AND ANOTHER,*** whose name was sponsored to the Pollution Control Board for the post of Junior Environmental Scientist on 16/10/1996 under consolidated pay and her services were regularised with effect from 11/4/2001. Her services for regularisation were not considered from the date of initial appointment but from 28/10/1999, thereby she had filed writ petition. The respondent Pollution Control Board has submitted that appointment from the date of regularising from the date of issuance of proceeding was justified on the basis of G.O.Ms.No.74, Personnel and Administrative Reforms (F) Department dated 27/6/2013. This co-equal Bench of this Court, on considering the rival contentions has observed at para Nos.5 and 6 as follows:-

“5. Therefore, the applicability of G.O.Ms.No.74 as contended by the respondents, does not withstand the scrutiny of this Court. But, however, the issue is no longer res-integra, as there has been judgment of the Division Bench of this Court in a batch of matters / W.A.Nos.528,



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529 and 721 to 733 of 2016, the Member Secretary, Tamil Nadu Pollution Control Board, Chennai and another Vs.K.Renganathan. The Division Bench had examined the case of the respondent therein, who had been appointed as electrician and who contended that his regularisation should be from the date of initial employment, but it was contended otherwise, by the appellant therein / Tamil Nadu Pollution Control Board. Let me extract the order of the Division Bench in entirety, since it is directly applicable to the facts of this case.

“3. The short issue, which arises for consideration in these Writ Appeals is with respect to the date of regularization.

4. It is the case of the private respondents that, they should be regularized from the date of their initial appointment and not from the date of order of regularization, whereas, the appellants contended that, their services should be reckoned only from the date of regularization.



5. The learned counsel appearing for the appellants submitted that the case of one S.Aruldoss, which was taken note of by the learned Single Judge, stands on different footing. The post of electrician was created on 23.12.1996, in which, the said S.Aruldoss was appointed. Whereas, the writ petitioners' appointment comes under the ministerial category. Secondly, it is submitted that, the private respondents, having accepted the benefits of regularization, it is not open to them to contend that their services should be reckoned from the date of initial appointment.

6. The learned counsel for the respondents submitted that the issue involved in this Writ is no longer res integra. The said S.Aruldoss filed a Writ Petition No.9969 of 2010 and obtained an order in his favour. Even in the said Writ Petition very same defence was taken, which was allowed and thereafter, the order was implemented. Not only that, similarly placed persons filed W.A.Nos.226 and 491 of 2012 before the Hon'ble Division Bench of this Court, and the Division Bench by a judgment dated 04.10.2010, allowed the Writ Appeals with certain directions, which



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was also implemented by passing appropriate Government Orders in G.O.Ms.No.114 of Animal Husbandry, Dairying and Fisheries (AH6) Department, dated 06.03.2014. Therefore, the appellants contended that the present Writ Appellants are liable to be dismissed, particularly, when, initial entry was proper, viz., through the employment exchange and after satisfying the requisite qualification, which is exclusive, however to reserve.

7. Considering the above said submission, we do not find any merit in these Writ Appeals. The learned Single Judge had rightly taken note of the decision rendered in the case of S.Aruldoss, who filed a Writ Petition No.9969 of 2010 and got an order, which was subsequently implemented. The post of electrician was regularized only subsequent to the initial appointment. Secondly, even in the Writ Appeals filed by similarly placed persons in W.A.Nos.226 and 491 of 2012, the Division Bench of this Court passed the following order:-

13.The name of the said S.Mathiyalagan is found in Sl. No.25 of G.O.Ms.No.117 dated



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28.08.2008. The names of the appellants in W.A.No.226 of 2012 viz., S.Rajangam and N.Thirukasu are found in Sl.Nos.140 and 141 (Ramanathapuram Region). Likewise, the name of the appellant in W.A.No.491 of 2012 viz., K.Krishnasamy is found in Sl.No.147. When the respondents have regularised the services of S.Mathiyalagan (Sl. No.25 in G.O.Ms.No.117 dated 28.08.2008) in the post of Animal Husbandry Assistant with effect from 01.07.1999 i.e. the date of joining in the regular post of Animal Husbandry Assistant and issued G.O.Ms.No.49 dated 20.02.2013, the respondents are not justified in denying the benefit to the appellants, contending that they are not similarly placed. When the appellants are similarly placed as that of S.Mathiyalagan, the respondents cannot seek to deny the benefit of regularisation of the appellants with effect from the date of joining in the regular post of Animal Husbandry Assistant.



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14. We are of the view that the appellants are similarly placed as that of S.Mathiyalagan and the appellants are entitled to be regularised with effect from the date of joining in the regular post of Animal Husbandry Assistant i.e. 21.08.1997 and 16.06.1999 respectively. The orders of the Writ Court cannot be sustained and are liable to be set aside.

14.For the foregoing reasons, the orders of the Writ Court in W.P.No.26753 of 2008 and 17559 of 2009 dated 28.09.2011 and 06.07.2011 respectively are set aside and the writ appeals are allowed. The respondents are directed to regularise the services of the appellants in the post of Animal Husbandry Assistant with effect from 21.08.1997 and 16.06.1999 respectively i.e. the date of appellants' joining in the regular post of Animal Husbandry Assistant and grant all the monetary benefits. If for any period, the appellants had been ousted for want of vacancy,



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the appellants shall not be entitled to any monetary benefit during that period but the same shall be taken into account for continuity of service. The respondents are directed to comply with the order within a period of four months from the date of receipt of a copy of the judgment. No costs.

8. The aforesaid order was given effect to by passing appropriate Government Orders in G.O.Ms.No.114 (mentioned supra), which is not disputed by the appellants. What the private respondents seek is only regularization of service from the date of their initial appointment. They are not seeking for salary with retrospective effect. Perhaps, they will be entitled to future benefits

9. In the light of the above discussion, we are of the view that no grounds are made out by the



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appellants to interfere with the order passed by the learned Single Judge. Accordingly, the Writ Appeals are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

6.The Division Bench had affirmed an earlier order passed by the learned Single Judge and had observed that the respondents therein had sought regularisation from the date of initial appointment, and that such relief should be granted.

11. For the similar proposition, learned counsel appearing for the petitioner filed a copy of the judgment made in ***1. THE MEMBER SECRETARY, TAMIL NADU POLLUTION CONTROL BOARD, 76 MOUNT SALAI, GUINDY, CHENNAI 600 032 AND ANOTHER Vs. K.RENGANATHAN*** (W.A.Nos.528, 529 and 721 to 733 of 2016) and ***A.BALASUBRAMANIAM Vs. 1. THE MEMBER SECRETARY, TAMIL NADU POLLUTION CONTROL BOARD, 76 MOUNT SALAI, GUINDY, CHENNAI 600 032 AND ANOTHER (W.P.Nos.15301 to 15315 of 2014) dated 22/2/2016.***



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12. Considering the above settled legal proposition which directly applies to the case on hand, it is clear that the petitioner who was initially appointed from 4/10/1996 should have been regularised from the date of his initial appointment and not from the date of issuance of proceeding. Accordingly, impugned proceeding dated 23/10/2014 issued by the second respondent in Memo No.TNPCB/Per/022078/2014 is liable to be quashed.

13. Accordingly, this writ petition is allowed and the impugned proceeding dated 23/10/2014 issued by the second respondent in Memo No.TNPCB/Per/P5/022078/2014 is hereby set aside. The second respondent is directed to issue fresh proceeding, regularising the services of the petitioner with effect from the date of initial appointment

i.e., from 4/10/1996, within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

20/6/2024

mvs.

Index: Yes/No



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Neutral Citation: Yes/No

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Tamil Nadu Pollution Control Board
No.76 Mount Road
Guindy
Chennai 600 032.
2. The Member Secretary
Tamil Nadu Pollution Control Board
No.76 Mount Road
Guindy
Chennai 600 032.

Dr.D.NAGARJUN,J

mvs.



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Pre-delivery order made in
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