



W.P.No.41001 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 03.06.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T.ASHA

W.P.No.41001 of 2015
and M.P.No.1 of 2015 and
W.M.P.No.4921 of 2016

M.Annadurai (died)

2. Rani
3. Ravi Varman
4. Mani Varaman

.. Petitioners

P2 to P4 are substituted as LR's
of the deceased P1 as per order dated
18.04.2024 in W.M.P.No.11747 of 2024
in W.P.No.41001 of 2015 by RKMJ

Vs.

1. The State of Tamilnadu
Rep by its Secretary to Government,
Department of Public Works
Chennai 600 009.
2. The Engineer-in-Chief,
(Water Resources Organization)
Public Works Department,



W.P.No.41001 of 2015

Chepauk, Chennai 600 005.

3. The Executive Engineer,
Buildings (C&M) Division,
Public Works Department (Health Services),
Salem 636 607.

4. The Assistant Executive Engineer,
Buildings (C&M) Division,
Public Works Department (Health Services),
Dharmapuri 636 705

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 2nd respondent to pass appropriate orders to regularize the services of the petitioner as helper based on the proposal dated 17.07.2014 made by the 4th respondent and pay the petitioner all consequential monetary and service benefits within a time frame fixed by this Court.

* * *

For Petitioners : Mr.A.Arun
for Mr.S.Sathia Chandran
For Respondents : Mr.V.Jeevagiridharan,
Additional Government Pleader

ORDER

The writ petition has been filed for a mandamus directing the second respondent to pass appropriate orders to regularize the services



W.P.No.41001 of 2015

of the petitioner as helper on the basis of the proposal dated 17.07.2014 made by the 4th respondent and pay all the consequential monetary and service benefits to him within a time frame to be stipulated by this Court.

2.The writ petitioner has approached this Court on the following facts.

(i) It is the contention of the petitioner that he belongs to Adiravidar community which is a scheduled caste and he has only studied upto 9th standard due to his poor, economic and social background. The petitioner would submit that he had been sponsored as a temporary daily wager (Mazdoor) in the Nominal Muster Roll (NMR) through the employment exchange on 16.02.1983 to the 4th respondent's office. He would submit that he has been discharging his duties diligently and has not given room for complaints from any



W.P.No.41001 of 2015

quarter. The petitioner would submit that, despite having worked on all the working days, he came to learn that there has been a variation in the actual attendance noted by the respondents. The petitioner had been time and again requesting the respondents to regularize his services.

(ii) While so, in the year 2000, the petitioner and few other NMRs were sought to be disengaged by the respondents, constraining them to approach the then Tamil Nadu Administrative Tribunal in O.A.Nos.24 to 35 of 2001. The Tribunal had also granted interim orders directing the respondents to engage the services of the petitioners so long as the work rendered by them was available, by order dated 05.01.2001. After abolition of the Tribunal, O.A.Nos.24 to 35 of 2001 were transferred to this Court and re-numbered as W.P.No.47353 of 2006 and the same is still pending. In this writ petition and the other connected writ petitions, the second respondent



W.P.No.41001 of 2015

has admitted in the counter affidavit dated 30.07.2013 which is a common counter affidavit in all the writ petitions that the petitioner had completed 10 years NMR service, though with a break between 1992 and 1996. The petitioner would submit that this contention that he has not worked between the period 1992 and 1996 is totally incorrect as the petitioner has rendered his service during the said period.

(iii) It appears that in the month of July 2014, the fourth respondent had forwarded the proposal for regularization of services of the petitioner and similarly placed persons. The number of days employed has also been provided by the fourth respondent. Meanwhile, in the month of November 2015, the fourth respondent had informed the petitioner that he was to be superannuated in the year 2015, having completed his 58 years of service and that he should not report to duty after December 2015. The petitioner



W.P.No.41001 of 2015

informed the fourth respondent that since he has been serving for long in the basic services, the age of superannuation is 60 years and that the instructions in writing to this effect to be issued. However, the request was turned down. Thereafter, the petitioner had sent a representation dated 30.11.2015 to the respondents 3 and 4 requesting them to permit him to continue in service till 18.01.2018, his date of superannuation. Since a satisfactory response was not received from the fourth respondent, the petitioner has come forward with the above writ petition, as he has put in nearly 32 years of service on the date of the filing of the writ petition with the fourth respondent.

3. The fourth respondent had filed a counter affidavit in which in paragraph 2, the fourth respondent after giving the petitioner's service particulars had also extracted the norms given in G.O.Ms.No.74, P & A.R. Department dated 27.06.2013 for regularizing the services of NMR employees with retrospective effect



W.P.No.41001 of 2015

from 01.01.2006. One of the norms was that the employees who have been appointed in a full time basis in consultation with the employment exchange to discharge the function of the post of the Tamil Nadu basic Service and who have completed 10 years of service as on 01.01.2006 has to be regularized against the regular vacancies in the sanctioned cadre strength. The service rules regarding the relaxation cannot be pressed into service for educational qualification and mode of recruitment. The fourth respondent would submit that the petitioner did not qualify as he had not completed 10 years of NMR services and therefore is not eligible for regularization. The respondent had also taken a defense that the NMRs were engaged for the purpose of executing projects and once the project is completed, there was no necessity to further engage them. The engagement of NMR employees was a policy decision taken by the Government and therefore, they cannot be treated on par with the Government employees. The fourth respondent would further



W.P.No.41001 of 2015

submit that vide order dated 10.07.2014 in W.P.No.2911 of 2012 and another batch of writ petitions, the request for similar regularization had been turned down in the light of the observations made by the Hon'ble Supreme Court in Civil appeal Nos.2726 to 2729 of 2014. Therefore, the rejection of the request of the petitioner cannot be countenanced.

4. Heard the learned counsels on either sides and perused the materials available on record.

5. The records would show that the fourth respondent had itself submitted a proposal to the second respondent for regularizing the services of the petitioner. In the proposal dated 17.07.2014, it has been stated in Column No.11 that he had joined the service on 15.04.1981 and on the date of the proposal, i.e on 17.07.2014, he had



W.P.No.41001 of 2015

put in 16 years of service. In column No.6, the number of days worked per year had been set out. This fact has to be necessarily taken into account by the respondents while considering the request of the petitioner which fact has not been taken into consideration.

6. Since the orders on the petitioner's representation are yet to be passed, the second respondent shall consider the petitioner's request in the light of the recommendation of the fourth respondent dated 17.07.2014 and pass orders within a period of 12 weeks from the date of receipt of a copy of this order. If the petitioner satisfies all the requirements/parameters, the respondents shall regularize the petitioner's services. There shall be no order as to costs. Consequently connected miscellaneous petitions are closed.

03.06.2024

Index : Yes/No

Internet : Yes



W.P.No.41001 of 2015

srn

To

1. The Secretary to Government,
Municipal Administration and Water
Supply Department, Secretariat,
Fort St.George, Chennai 600 009.
2. The Director of Municipal Administration,
Chepauk, Chennai 600 005.
3. The Commissioner,
Salem Corporation, Salem.



WEB COPY



W.P.No.41001 of 2015

P.T.ASHA, J.

srn

W.P.No.41001 of 2015

03.06.2024