



WEB COPY



W.P.No.8089 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.8089 of 2024

and

W.M.P.No.9040 of 2024

1. N.Mayavan
2. M.Govindasamy
3. O.Karuppan

..... Petitioners

Vs

1. Tamil Nadu Khadi and Village Industries Board,
Rep. its Chief Executive Officer,
Kuralagam,
Chennai – 600 108.

2. The Assistant Director,
Tamil Nadu Khadi and Village Industries Board,
Cuddalore.

3. The Assistant Director,
Tamil Nadu Khadi and Village Industries Board,
Kancheepuram – 631 501.

4. The Assistant Director,
Tamil Nadu Khadi and Village Industries Board,
Erode – 638 104.

..... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to continue



W.P.No.8089 of 2024

the petitioners in service until they attains 60 years of age pursuant to the amended Rule 56 sub-rule (1) clause (a) of Fundamental Rules read with GO (Ms) No.92 dated 13.09.2021 issued by Human Resources Management (FRII) Department.

For Petitioners : M/s.S.Meenakshi
For Respondents : Mrs.R.Uma
Standing Counsel

ORDER

This Writ Petition has been field for a direction directing the respondents to permit the petitioners to continue their service till their attainment of age of 60 years.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioners had joined the service of the first respondent Khadi and Village Industries Board in Soap Unit in the year 1984. Though they had completed 480 days of continuous employment and entitled to be made permanent as per Section 3 (1) of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status of Workman) Act, 1981, they were not considered to be made permanent. Therefore, the workers from various soap units had approached the Authority constituted under the Tamil



W.P.No.8089 of 2024

Nadu Industrial Establishment (Conferment of Permanent Status to Workman)

Act, 1981 for issuance of direction to the first respondent for conferment of permanent status to them. The competent Authority under the Act passed an order dated 05.02.1998, 29.12.1997 and 21.01.1998, holding that the said Act is applicable to the first respondent. However, it was challenged by the first respondent before this Court in a batch of writ petitions in W.P.Nos.3520, 3697 and 3558 of 1999 and the same were dismissed.

4. Aggrieved by the same, the first respondent also filed writ appeals in W.A.Nos. 662 to 664, dated 23.11.2009, upheld the order passed by the competent Authority under the Act and directed the first respondent to comply with the direction. Thereafter, the petitioners were granted permanent status with effect from the date of completion of 480 days. Therefore, they are entitled for all the benefits on par with the Government servants with regard to pay scales and other service conditions. The Government of Tamil Nadu issued G.O.Ms.No.51, dated 07.05.2020 by Personnel Administrative Reform(S) Department, thereby ordered to increase the age of superannuation of the Government servants from 58 years to 59 years. In furtherance to the above said G.O., the Government issued G.O.(Ms) No.62, dated 01.06.2020, thereby



W.P.No.8089 of 2024

amending the Fundamental Rules. Further another Government order has been passed in G.O.Ms.No.29, dated 25.02.2021, thereby increasing the age of superannuation of Government servants from 59 years to 60 years. It applies to all Government servants/teachers who are all Constitutional/Statutory Bodies, Public Sector undertakings including all State Corporations, Local Bodies, Boards, Commissions and Societies. All the three petitioners are now apprehending that the first respondent will not confer permanent status to the petitioners to work till their attainment of age of 60 years. Hence, this writ petition.

5. In this regard, the learned counsel appearing for the petitioners relied upon the Judgment of this Court in batch of Writ Petitions in W.P.No.14186 of 2020 etc batch, dated 14.09.2022 and this Court held as follows :

“4. Subsequently, the Government in the next year, m i.e., in the year 2021, has come forward to issue another Government order in G.O.(Ms) No.29 by the very same Personnel and Administrative Reform(s) Department dated 25.02.2021, under which, the superannuation age was further increased from 59 to 60. Therefore, it has become clear that by virtue of these two Government Orders, since the Rule which is



W.P.No.8089 of 2024

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in vogue having been amended and the import of the G.O. was directed to be applied by the Public Section undertakings, Local Bodies, Boards, Commissions, Societies, etc.,. The superannuation age of these employees, since has been increased from 58 to 59 initially and 59 to 60 subsequently, they are entitled to work till 60 years.

5. In that background, these petitioners, since are entitled to get such extension since the respondent is one of the Government Board viz., Tamil Nadu Khadi and Village Industries Board, such extension should have been automatically issued in respect of the service of the petitioner to superannuate at the age of completion of 60 years only. However since the same has not been given effect and one of the writ petitioner viz., N.Arumugam in W.P.No.14186 of 2020, since attained the age of 58 years, he was directed to retire and accordingly, he was made to retire on 24.10.2020.

6. Only at that juncture, apprehending that similar consequence would come to the other petitioners also, all these petitioners had filed writ petitions. These writ petitions initially sought for mandamus and subsequently, the prayer has been amended with a mandamus directing the respondent to permit the petitioner to continue in service until they attain the age of 60 years, pursuant to the said two Government orders.

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18. In that view of the matter, this Court is inclined to



W.P.No.8089 of 2024

WEB COPY

dispose of these writ petitions with the following orders :

** That insofar as these writ petitioners are concerned, except the writ petitioner in W.P.No.14186 of 2020, all other writ petitioners, since were permitted to continue in their respective job till they attained the age of superannuation i.e., 60 years, there could be no further grievance from that petitioners to be redressed.*

** Insofar as W.P.No.14186 of 2020 filed by one Arumugam is concerned, he was made to retire by 24.10.2020 in spite of increasing the superannuation age and has been reinstated belatedly only on 01.09.2022. For the said period, the said petitioner is entitled to get the entire salary i.e., backwages, for which, already the salary upto October 2021, admittedly since has been paid, the remaining salary from November 2021 till August 2022 shall be calculated and be paid to the said petitioner viz., Arumugam, by the respondents Board, within a period of eight (8) weeks from the date of receipt of a copy of this order."*

6. Therefore, the contention of the respondents is that both the G.Os extended the age of superannuation from 58 to 60 are not applicable to the first respondent Board is not countenanced in view of the order passed by this Court in a batch of writ petitions. It is also seen from the Tamil Nadu Government Servants Conduct Rules as amended from time to time so as they



W.P.No.8089 of 2024

may be applicable shall apply MUTATIS MUTANTIS to the members of the Board service also. Therefore, the Government orders are very much applicable to the petitioners.

7. In view of the above, the respondents are directed to permit the petitioners in their respective service until they attain the age of 60 years and allow them to retire only after completion of attainment of the age of 60 years.

8. With the above direction, this Writ Petition stands disposed of. Consequently, connected miscellaneous petition is closed. No costs.

22.03.2024
(2/2)

Internet: Yes
Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
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To

1. The Chief Executive Officer,
Tamil Nadu Khadi and Village Industries Board,
Kuralagam,
Chennai – 600 108.

G.K.ILANTHIRAIYAN. J.



W.P.No.8089 of 2024

Lpp

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