



W.P.No.11233 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.11233 of 2021

N.Nithianathapandi

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep by Secretary to Government,
Environment and Forest Department,
Secretariat, Chennai 600 009.

2.The Principal Chief Conservator of Forest,
Head of the Forest Department,
Panagal Maligai, Saidapet, Chennai 600 015.

3.The District Forest Office,
Dindugal Circle, Velunachiar Valagam,
Dindugal Circle.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to regularize the service of the petitioner as driver from the date of initial appointment i.e., 03.07.2001 with all consequential service and monetary benefits.

For Petitioner : Ms.T.Dharani



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For Respondents : Mr.R.Neethiperumal, GA

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Mandamus, to direct the respondents to regularize the service of the petitioner as driver from the date of initial appointment i.e., 03.07.2001 with all consequential service and monetary benefits.

2. Heard Ms.T.Dharani, learned counsel for the petitioner and Mr.R.Neethiperumal, learned Government Advocate for the respondents.

3. The petitioner was appointed as Driver in the respondent Department on 03.07.2001. Since the petitioner was working as a Driver on daily wage basis for more than 20 years, he made a representation to the respondents to regularise his service. But till date, the respondents have not considered the request of the petitioner. Similarly placed person like the petitioner has approached this Court by way of W.P.(MD)No.11106 of 2013. The said Petition was allowed on 01.12.2016 and the Government has implemented the order by passing G.O.Ms.No.03, Environment and Forest Department dated 11.01.2019



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and regularised the services of the petitioner therein. The following observations have been made in the said Writ Petition:

"7. The primary and core issue is that whether the petitioner is entitled to regularisation or not? The petitioner is been inducted into service on 15.10.1997 and still discharging his duty which is not denied by the respondents which will prove that the petitioner is in continuous employment and his service is essential and un-dispensable one. The second respondent while sending the proposal has categorically held that the petitioner has put in 13 years and 8 months of service and also sought for relaxation of rules in order to regularise his service. But the first respondent has rejected the proposal on the sole ground that they have not completed 10 years of service as on 01.01.2006 vide G.O.Ms.No.22, P & AR Department dated 28.02.2006 but there is no rely or refusal in regard to the extension of the benefit given to others by the Government Advocate.

8. After utilising the petitioner's service for more than 13 years and still utilising as on date is shocking



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the conscious of this Court. Further, the respondents are liable as they have extracted the service of the petitioner and based on principles of promissory estoppel and legitimate expectation, the impugned order is liable to be quashed in so far as the petitioner is concerned. Further the petitioner is not entitle to the regularisation from the date of initial appointment but only from the date of completion of 10 years of service.

9. In the result,

(a) the writ petition is allowed by setting aside the impugned order passed by the first respondent in his proceedings in Letter No.15393/tdk;-2/2012-9 dated 09.05.2013, so far as the petitioner is concerned;

(b) the respondents are hereby directed to regularise the service of the petitioner from the date of completion of 10 years service and pay back all the service and monetary benefits to the petitioner;

(c) the respondents are directed to complete the said exercise within a period of three months from the date of receipt of a copy of this order. No costs."

4. Since the above case is squarely applicable to the case of the



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petitioner. Hence the petitioner is also entitled for regularisation as like the similarly placed person. So it is appropriate to direct the respondents to regularise the services of the petitioner in the light of the order passed in W.P.(MD) No.11106 of 2013 dated 01.12.2016.

5. In the result, this Writ Petition is disposed and the respondents are directed to regularise the services of the petitioner from the date of his initial appointment i.e., 03.07.2001 with all consequential service and attendant benefits. No costs.

12.01.2024

Index : Yes /No
Internet : Yes/No
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R.N.MANJULA, J.

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To

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