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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.08.2024

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**
and
THE HONOURABLE **MR. JUSTICE G.ARUL MURUGAN**

W.P.Nos.12320, 12329, 12335, 12336, 12337, 12338, 12322, 12323, 12324,
12319, 12327, 12321, 12325, 12326, 12328, 12330, 12331, 12332, 12333,
12344, 12334, 12339, 12340, 12341, 12342 & 12343 of 2018
and
WMP.Nos.14468, 14436, 14470, 14472, 14474, 14434, 14438, 14440,
14442, 14444, 14446, 14448, 14450, 14452, 14454, 14456, 14458, 14460,
14462, 14464, 14466, 14476, 14478 & 14480 of 2018

WP.No.12320 of 2018

V.Arikrishnan

... Petitioner

Vs

1.The Special Secretary to Govt.,
Department of Personnel and
Administrative Reforms (Personnel Wing),
Chief Secretariat, Puducherry.

2.The Secretary, Legislative Assembly
Secretariat, Puducherry.

3.The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai.

4.S.Narayanasamy

5.J.Arupudaraj

... Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus to call for the records of the 3rd respondent in respect of the decision in Original Application No.619 of 2016 dated 15.2.2017 and to quash the same and consequently to direct the first respondent to regularise the services of the petitioner with effect from the date of regularisation of the services of the respondents 4 and 5 with all other consequential benefits.

(In all WPs)

For Petitioners : Mr.V.Ajayakumar
For Respondents : Mr.Syed Mustafa (for R1 & R2)
Special Government Pleader
R3 – Tribunal
No Appearance (for R4 & R5)

ORDER

(Order of the Court was made by Dr.ANITA SUMANTH,J.)

We have heard submissions of Mr.Syed Mustafa, learned Special Government Pleader (Pondicherry) who appears for the respondents. As far as the writ petitioners are concerned, the name of Mr.V.Ajayakumar, learned Counsel is printed in the cause-list. However, Mr.Ajayakumar, submits that he has no instructions to report the Court since the briefs have been returned to the writ petitioners. This need not however, not deter us from disposing these writ petitions in view of the trajectory that these matters have taken over the years during the pendency of these writ petitions.



2. This batch of 26 writ petitions has been filed by individuals who are aggrieved by the non-regularization of their services by the Secretariat, Legislative Assembly, Chennai. The matter has a checkered history. The writ petitioners had earlier approached this Court in W.P.No.34573 of 2013 where the prayer was for a mandamus to direct the respondents therein, being the Chief Secretary, Government of Puducherry/R1 and the Secretary, Legislative Assembly Secretariat, Government of Puducherry/R2, to regularise their services with effect from their initial dates of appointment as daily rated employees.

3. Since they had made representations before the authorities seeking the same plea, by order dated 19.12.2013, the writ petition was disposed directing the respondents to dispose their representations in accordance with law and in a time bound manner. An Official Memorandum had been issued on 01.07.2014 giving effect to the order of this Court dated 19.12.2013 and rejecting the request of the petitioners. The operative portion of Memorandum dated 01.07.2014 reads as follows:-

4. In this regard, the Under Secretary to Government, Department of Personnel & Administrative Reforms (Personnel Wing), Puducherry had stated in the I.D. Note third cited, that 60 daily rated posts were created in Legislative Assembly Secretariat specifically to perform the works other than the post of Watchman and Sanitary Assistant / Helper and requested the Legislative Assembly Secretariat to dispose of the representations first cited.



5. *As per the Recruitment Rules for Multi-Tasking Staff (Security & House Keeping) notified vide G.O. fourth cited, absorption is to be made from the full time casual labourers available in the list prepared by the Department of Personnel & Administrative Reforms (Personnel Wing), in terms of "The Government of Puducherry Casual Labourers (Engagement and Regularisation) Scheme 2009" notified vide extra-ordinary Gazette No. 15 dt. 27.02.2009 of Government of Puducherry.*

6. *Since the Department of Personnel & Administrative Reforms (Personnel Wing), has not acceded to consider the representation of Full Time Casual Labourers engaged in the Legislative Assembly Secretariat, the representations of the Petitioners in the W.P. second cited for their regularization could not be considered."*

4. Seniority lists were thereafter drawn within the Legislative Assembly Secretariat based on the decision taken in Memorandum dated 01.07.2014 and the petitioners had thereafter approached the Central Administrative Tribunal (CAT) seeking revision of the seniority list, and praying that they be accorded due seniority per their request.

5. Those applications have come to be disposed by way of the impugned order dated 15.02.2017 adverse to the petitioners, as against which the present writ petitions have been filed. The CAT has disposed the writ petitions merely noting the pendency of W.P.No.30078 of 2014 before this Court, and refraining from addressing the merits of the matter in those circumstances.



6. W.P.No.30078 of 2014 has been filed by these petitioners seeking a writ of certiorarified mandamus to call for the records of the first respondent bearing No.7779/LAS/Estt./E2/2014 dated 01.07.2014 and to quash the same and consequently direct the respondents to regularise the services of the petitioners with effect from the date on which they were appointed on daily rated basis with all other consequential benefits including arrears of wages.

7. At the time of admission on 19.11.2014, the writ court has passed an order to the effect that status quo be maintained as on that date, recording the grievances of the petitioner that their services are likely to be terminated. It was made clear that the order of status quo would have a bearing only with regard to their employment and not with effect to a determination relating to inter se seniority or any other benefit.

8. While this is so, a second memorandum came to be issued on 15.09.2017 addressing the representations of the petitioners and finding the same unacceptable in the following terms:

*“GOVERNMENT OF PUDUCHERRY
DEPARTMENT OF PERSONNEL & ADMINISTRATIVE REFORMS
(PERSONNEL WING)*

No.C.18014/2/2017-DPAR/GC/UII Puducherry, dated 15.09.2017

ORDER

*Sub: Issue of Speaking Order in compliance to the
direction of Hon'ble CAT, Madras Bench in
O.A.No.310/00576/2016 to 310/00627/2016 with*



regard to the Representation by 60 Full Time Casual Labourers of Legislative Assembly Secretariat, Puducherry – Reg.

Ref: 1. Order dt.15.02.2017 of Hon'ble CAT, Madras Bench in O.A.No.310/00576/2016 to 310/00627/2016.

2. Order dt.19.12.2013 of Hon'ble Court, Madras in W.P.No.34573/2013.

3. Memo No.7779/LAS/Estt./E2/2014 dt.01.07.2014 of the Secretary, Legislative Assembly Secretariat, Puducherry.

WHEREAS 60 Full Time Casual Labourers of Legislative Assembly Secretariat, Puducherry have submitted representation dated 31.05.2013 addressed to the Secretary, Legislative Assembly Secretariat for regularisation of their services in the Assembly Secretariat;

2. AND WHEREAS aggrieved by their non-regularisation, they filed a W.P.No.34573/2013 in Hon'ble High Court, Madras praying to direct the respondents to regularise their services considering their representations. Hon'ble High Court, Madras directed the 1st respondent ie. the Chief Secretary to consider the representation of the petitioners dated 31.05.2013 and pass appropriate orders on merits and in accordance with law. In compliance, necessary orders of the Chief Secretary was obtained on the representation of the Petitioners and the 3rd respondent i.e. the Secretary, Legislative Assembly Secretariat, Puducherry issued a Speaking Order through Memorandum 3rd cited rejecting their request;

3. AND WHEREAS the applicants filed O.A.No.310/00576/2016 to 310/00627/2016 before Hon'ble CAT, Madras Bench in which prayed to revise the seniority list of Full Time Casual Labourers maintained by DP&AR including them at appropriate seniority number and to regularise their services in the post of Multi Tasking Staff and the Hon'ble Tribunal has specifically ordered the 1st respondent (in W.P.No.34573/2013) i.e. Chief Secretary to consider and pass suitable Speaking Order on the representation dated 31.05.2013 submitted by them;



4. *AND WHEREAS in the intervening period, the applicants have also filed another W.P.No.30078 of 2014 praying for regularisation of their services in the Assembly Secretariat itself in which status quo has been ordered by Hon'ble High Court of Madras to continue their engagement which is also pending for final disposal.*

5 *NOW THEREFORE, in compliance to the direction of Hon'ble CAT, Madras Bench in O.A.No.310/00576/2016 to 310/00627/2016, it is conveyed that a decision has since been taken to include them at the bottom of the list of Full Time Casual Labourers maintained by this department in consonance with "The Puducherry Casual Labourers (Engagement & Regularisation) Scheme. 2009", subject to the outcome in the W.P.No.30078/2014 pending before the Hon'ble High Court of Madras in which status quo has been ordered.*

Sd/-

(Manoj Parida)

CHIEF SECRETARY TO GOVERNMENT

*To
Thiru K.Vaithilingam,
S/o.Krishnan,
No.4, Mariamman Koil Street,
Melparikkalpet,
Bahour Post,
Puducherry – 607 402.
and 59 others,
Legislative Assembly Secretariat,
Puducherry."*

9. In our opinion, there was no trigger or necessity for the issuance of Memorandum dated 15.09.2017 as the representations of the petitioners for regularization with effect from their initial dates of appointment as daily rated employees had already been addressed and rejected under Memorandum dated 01.07.2014 which is under challenge in W.P.No.30078 of 2014, yet



pending.

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10. To a specific query as to whether Official Memorandum dated 15.09.2017 is available in public domain or whether the writ petitioners are aware of the passing of the same, our attention is drawn to the fact that the Memorandum, in conclusion indicates that it has been sent to 60 employees who are concerned with the subject issue, including the present writ petitioners.

11. In light of the fact that W.P.No.30078 of 2014 is still pending, the petitioners may well pursue their grievances in that writ petition. We are of the considered view that impugned order of the CAT has not really caused any prejudice, as the CAT has only closed the applications noting that the petitioners may pursue the pending writ petition.

12. With this, the present writ petitions are dismissed. No costs. Connected Miscellaneous petitions are closed. It is made clear that the petitioners can put forth all their contentions on merits in W.P.30078 of 2014 and we have not made any observations that would stand in their way of those proceedings.

(A.S.M.,J) (G.A.M.,J)
19.08.2024

mpl

Index: Yes/No

Neutral Citation : Yes

Speaking order : Yes



W.P.No.12320 of 2018 & etc. batch

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Department of Personnel and
Administrative Reforms (Personnel Wing),
Chief Secretariat, Puducherry.
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