



W.P.No.14825 of 2021

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.14825 of 2021 and
W.M.P.No.15696 of 2021 & 3258 of 2022

L.Mageswaran

... Petitioner

Vs.

1. The Secretary to Government,
Highways Department,
Secretariat, Chennai - 600 009.
2. The Chief Engineer, (General),
Highways Department,
Chepauk, Chennai - 600 005.
3. The Divisional Engineer,
Highways Division, Vaniyampadi,
Thirupatur District.
4. The Assistant Divisional Engineer,
Highways Construction and Maintenance,
Gudiyatham Division,
Gudiyatham, Vellore District.
5. The Senior Accountant Officer,
Office of Tamil Nadu Government
Accountant General,
No.361, Annasalai,
Teynampet, Chennai.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to



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issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order/letter issued by the 3rd respondent in Ku.No.784/2017/B3, dated 20.12.2017, quash the same and consequently direct the respondents to regularize the petitioners service with effect from 30.06.1998, the date of completion of 3 years of daily wage service with all service benefits and allot the GPF Account Number to the petitioner.

For Petitioner : Mr.D.Gopinathan

For Respondents : Mr.R.Neelankandan
Additional Advocate General
Assisted by
Mr.Yugesh Kannadasan,
Special Government Pleader

ORDER

The petitioner herein, who joined as a Non-Muster Roll (in short NMR) in the Highways Department, Gudiyatham, Vellore District claims for absorption as a daily wage employee and for regularisation of his service on completion of three years. The said claim was rejected through the impugned order of the third respondent, dated 20.12.2017.

2. Mr.D.Gopinathan, learned counsel for the petitioner submitted that similarly placed NMRs who have completed three years, have been regularised and that the petitioner would also be entitled for such regularisation. The learned counsel for the petitioner placed reliance on the



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order passed in ***WP.No.36623 of 2004*** in the case of ***V.Kaliappan & 26 others Vs. The State of Tamil Nadu, Highways Department and others*** dated ***09.12.2005***, wherein this Court directed the Highways Department to regularise the services of those NMRs, who had completed three years of service and the petitioner's case is also identical to that of those NMRs,

3. Mr.R.Neelankandan, learned Additional Advocate General appearing for the respondents submitted that as per the proceedings of the Divisional Engineer, Construction and Maintenance, Vellore, in 1674/2012/B3, dated 26.04.2013, the petitioner comes under the Contributory pension Scheme, dated 01.04.2003 from the date of joining of his service. The said proceedings was not challenged by the petitioner and the petitioner cannot claim any relief based on the order passed in W.P.No.36623 of 2004.

4. Admittedly, this Court has passed the order in WP.No.36623 of 2004 in favour of NMRs who are similarly placed persons like the petitioner herein, by directing the Highways Department to regularise the services of those NMRs, who had completed three years of service and and



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the same was confirmed by the Hon'ble Supreme Court and it has thus become final.

5. On perusal of the orders in WP.No.36623 of 2004, dated 09.12.2005, it is seen that the respondents themselves have regularized the services of many of the NMRs on completion of three years of service. It is also seen that the first respondent has also passed an order in G.O.Ms.No.55 Highways and Minor Ports Department, dated 19.05.2014, wherein, the services of the NMRs who have completed three years of service were regularised in respect of one P.Arumugam, on the basis of the order passed by this Court in WP.No.30080 of 2013 dated 07.11.2013.

6. In the light of the above findings and orders passed by this Court in WP.No.36623 of 2004 dated 09.12.2005 as well as G.O.Ms.No.55 Highways and Minor Ports Department, dated 19.05.2014, the impugned order is liable to be set aside.

7. In the result, this Writ Petition stands allowed. The orders passed by the 3rd respondent in Ku.No.784/2017/B3, dated 20.12.2017, is hereby quashed. The first respondent is directed to pass orders for absorbing and



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regularising the petitioner's services, by considering his representation, dated 15.02.2018, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

12.01.2024

Index: Yes / No
Speaking order / Non-speaking order
vum

To:

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Highways Construction and Maintenance,
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