



WEB COPY



W.P. No.15675 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2024

CORAM:

THE HONOURABLE **Mr. JUSTICE MUMMINENI SUDHEER**
KUMAR

W.P. No.15675 of 2021

1. R.Ethiraj
2. M.Amirtha Lakshmi
3. J.Neela

.. Petitioners

Versus

1. The State of Tamil Nadu
Rep.by its Secretary,
Public Works Department,
Fort St. George,
Chennai – 600 009.
2. The Chief Secretary to Government,
Personnel & Administrative Reforms (F) Department,
Fort St. George,
Chennai – 600 009.
3. The Chief Engineer (Buildings),
Public Works Department,
Chepauk,
Chennai – 600 005.
4. The Executive Engineer,
Public Works Department,
South Presidency Division,
Chepauk, Chennai – 600 005.

.. Respondents



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Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the second respondent's order made in G.O.Ms.No.74 P & AR (F) Department dated 27.06.2013 to an extent of paragraph-6 therein is concerned and that of the order of the fourth respondent made in Lr.No.282/E2/Court Case/EE/2017 dated 12.04.2017, to quash the same in so far as the petitioners are concerned and to consequently direct the respondents to regularize the services of the petitioners on completion of 10 years of services and to extend all benefits both service and monetary.

For Petitioners : Mr.L.Chandrakumar

For Respondents : Mr.M.Murali
Government Advocate

ORDER

The petitioners 1 and 3 herein claims that they were appointed as Casual Labourers / NMR during the year 2007 and the second respondent was appointed as Casual Labourers / NMR during the year 2006 and they were completed 10 years of service between the years 2019 - 2020 and continued as Casual Labourer / NMR. Having come to know about the scheme formulated by the Government in G.O. Ms. No.22, P&AR Department dated 28.02.2006 providing for regularization of temporary services on completion of 10 years



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of service as on 01.01.2006, the petitioners have also made a claim for regularization of their services on completion of 10 years of service.

However, the said claim of the petitioners were not considered by the respondents and therefore the petitioners approached this Court by filing the present writ petition.

2. From the perusal of the materials on record it is noticed that the claim of similarly situated persons for regularization on completion of 10 years have fallen for consideration before this Court in various cases and finally the matter has gone before the learned Full Bench of this Court. The learned Full Bench of this Court having considered the conflicting orders passed by different Division Benches, passed a final order answering the reference vide order dated 26.02.2024 in W.P.No.23823 of 2023 held as under:

“ .. 38.In fine, we hold

(a) If it shown that the appointment is made to anyone of the 86 categories of posts enumerated in the Tamil Nadu Basic Service immaterial of the fact that whether such appointment is part-time or full-time, the employee would be entitled to the benefit of regularization de hors G.O.Ms.No.74 dated 27.06.2013.

(b) If it is shown that the nature of employment is temporary and the requirement will cease to exist after a particular time, like



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those appointments that are made under various welfare schemes, it will then be open to the Government to engage temporary employees on part-time employees.

*39. We conclude that the judgments in **State of Tamil Nadu. By its Secretary, Public Works Department, and another Vs. S.John Charles and others, and State of Tamil Nadu rep. by its Secretary to Government, Rural Development and Panchayat Raj Department and others Vs. K.Rajakrishnan**, cannot be taken as laying down an inflexible rule of law that any part-time or temporary employee who has completed 10 years of service on 28.02.2006 will not be entitled to regularization. The benefit of regularization will depend on the nature of the job and the fact that whether the post falls within any one of the 86 categories mentioned in the Special Rules for Tamil Nadu Basic Service.”*

3. In the light of the above decision of the learned Full Bench of this Court, this Court is of the considered view that it is a fit case where the respondents should consider the claim of the petitioners in the light of the decision of the Full Bench of this Court.

4. Accordingly this Writ Petition is allowed and impugned order passed by the second respondent in G.O.Ms.No.74 P & AR (F) Department dated 27.06.2013 is set aside in respect of paragraph No. 6 and the order passed by the fourth respondent in Lr.No.282/E2/Court Case/EE/2017 dated



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12.04.2017, is set aside and the matter is remitted back to the respondents to

consider the claim of the petitioners in the light of the decision rendered by the Hon'ble Full Bench as well as the other decisions rendered by the various Division Benches. The petitioners are permitted to submit a representation before the first respondent within a period of four weeks from the date of a receipt of a copy of this order. On submission of such representation by the petitioners, the respondents shall consider the claim of the petitioners for regularization by duly taking into consideration the above decision rendered by the Hon'ble Full Bench as well as the other decisions rendered by the various Division Benches, and pass appropriate orders thereon as expeditiously as possible, preferably within a period of three months from the date of submission of the representation. The petitioners are granted liberty to place before the respondents the decision of the Hon'ble Full Bench as well as the other decisions rendered by the Division Benches, which they intends to rely. No costs.

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Index:Yes / No

Speaking order / Non speaking order

Neutral Citation Case: Yes / No

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MUMMINENI SUDHEER KUMAR, J.

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Copy To:

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