



W.P. No.15686 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.15686 of 2021

J.Gowri

.. Petitioner

Versus

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

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents 1 to 3 to regularize the services of the petitioner on completion of 10 years of NMR / Casual labourer services and to extend all benefits both service and monetary thereto.



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For Petitioner : Mr.L.Chandrakumar
For Respondents : Mr.M.Murali
Government Advocate

ORDER

The petitioner herein claims that she was appointed as Casual Labourer / NMR on 01.05.1998 and completed 10 years of service by 30.04.2008 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 of service as on 01.01.2006, the petitioner had also made a claim for regularization of her services on completion her 10 years of service. However, the said claim of the petitioner was not considered by the respondents and therefore the petitioner 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 yeas 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



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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 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.”*



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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 the Writ Petition is disposed of by permitting the petitioner 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 petitioner, the respondents shall consider her claim 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 petitioner is 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 she intends to rely. No costs.

29.07.2024

Index:Yes / No
Speaking order / Non speaking order
Neutral Citation Case: Yes / No
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- Copy To:
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MUMMINENI SUDHEER KUMAR, J.

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