



WEB COPY



W.P.No.25422 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.25422 of 2022
W.M.P.No.24403 of 2022

T.Shanmugam

...Petitioner

-Vs -

1. The Government of Tami Nadu,
Rep. by its Secretary,
Highways and Minor Port Department,
Fort St. George,
Chennai – 600 009.
2. The Principal Director,
Highways Department,
No.76, Sardar Patel Road,
Guindy, Chennai – 600 025.
3. The Divisional Engineer,
Highways Department,
Constructions & Maintenance Department,
Chenglepet, Chenglepet District.
4. The Junior Engineer,
Highways Department,
Constructions & Maintenance Department,
Maduranthagam,
Chenglepet District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorarified Mandamus, calling for the



W.P.No.25422 of 2022

records of the fourth respondent in his impugned letter Ko.No.02/2021/JE/dated 08.01.2021 and the impugned order passed by the first respondent in his letter No.2151/H.M.2/2021-5 dated 31.05.2022 and quash the same and consequently direct the respondents to implement the order passed by the learned Tamil Nadu Administrative Tribunal, Chennai in O.A.No.6099/1996 dated 20.11.2001 by regularizing the petitioner's service with all monetary and other attendant benefits.

For Petitioner : Mr.K.Raja
For Mr.K.Kannan

For Respondents : Mr.K.Tamilvendan
Government Advocate.

ORDER

This writ petition has been filed challenging the order passed by the fourth respondent dated 08.01.2021 and consequential order passed by the first respondent dated 31.05.2022, thereby refused to consider the request made by the petitioner for regularization of his service.

2. The petitioner had been working under the fourth respondent as NMR from 02.02.1993 to 31.05.2001. In order to seek regularization of his service, the petitioner filed application before the Tamil Nadu Administrative Tribunal in O.A.No.6099 of 1996. The Tribunal by an order dated 20.11.2001 passed the following orders :-



WEB COPY



W.P.No.25422 of 2022

"6. In the circumstances the following order is passed in this case also:

(i) The service of those applicants who have been working for three years and more as NMRS., with short breaks, shall be regularized in their posts. If there is a gap of more than three months between period of termination and reappointment, that period may be excluded in the computation of three years period.

(ii) The process of identifying those persons who have been working for three years and more as NMRS with short breaks as above shall be completed in a period of three months.

(iii) Depending upon the needs, those casual workers/NMRs, who have been working for less than three years, shall continue to be engaged, according to seniority and eligibility, till their service are regularized in a phased manner, depending upon financial constraints.

(iv) There shall not be any new recruitment of NMRs till the services of the aforesaid applicants are regularized.

(v) Such of those applicants, who are entitled to the benefits of G.O.Ms.No. 702, Transport Department dated 18.06.1981, G.O.Ms.No. 135, Transport Department dated 07.02.1983 and G.O.Ms.No. 95, Transport Department dated 04.02.1988 shall be given the benefits of the same.

These process shall be completed in three months.



W.P.No.25422 of 2022

The petitions are ordered as above."

Accordingly, the Tribunal directed that the service of those applicants who have been working for three years and more as NMRs., with short breaks, shall be regularized in their post.

3. Based on the order passed by the Tribunal, the third respondent called for all the particulars from the petitioner and forwarded the same to the Chief Engineer, Highways, Chennai. However, it was not considered and did not regularize the service of the petitioner. Therefore, the petitioner submitted representation dated 20.10.2020 and the same was rejected by the fourth respondent by an order dated 08.10.2021 and the same was also confirmed by the first respondent by an order dated 31.05.2022.

4. The learned counsel appearing for the petitioner submitted that similarly placed person one M.Kumar was died and his legal heir viz., his wife was given appointment on compassionate ground in regular vacancies. However, the case of the petitioner was not considered and rejected by the respondents.



W.P.No.25422 of 2022

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. On perusal of the counter filed by the fourth respondent revealed that after the order passed by the Tribunal, on verification, it was found that the petitioner was working as daily wage worker from 02.02.1993 to 17.05.1996 viz., 239 days which is less than three years. In fact, even before the Tribunal, it was stated that the petitioner was not completed 240 days within the given period. Further as per the order passed by the Tribunal, those casual workers/N.M.Rs., who have been working less than three years, continued to be engaged and according to their seniority and eligibility, till their services are regularized in a phased manner, depending upon the financial constraints.

7. That apart, the petitioner approached the respondents after the period of 21 years from the date of the order passed by the Tribunal. Considering the change of legal position on the basis of the judgment of the Hon'ble Supreme Court of India and also as per the government orders in G.O.Ms.No.74, Personnel and Administrative Reforms Department dated 27.06.2013 and G.O.Ms.No.131, Personnel and



W.P.No.25422 of 2022

Administrative Reforms Department dated 28.11.2020, the petitioner is not eligible for regularization. Therefore, this Court finds no infirmity or illegality in the order passed by the respondents and the writ petition itself devoid of merits and liable to be dismissed.

8. Accordingly, the Writ Petition stands dismissed. Consequently, connected miscellaneous petition is closed. There shall be no orders as to costs.

23.02.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No

rts



W.P.No.25422 of 2022

To
WEB COPY

1. The Secretary,
Government of Tami Nadu,
Highways and Minor Port Department,
Fort St. George,
Chennai – 600 009.
2. The Principal Director,
Highways Department,
No.76, Sardar Patel Road,
Guindy, Chennai – 600 025.
3. The Divisional Engineer,
Highways Department,
Constructions & Maintenance Department,
Chenglepet, Chenglepet District.
4. The Junior Engineer,
Highways Department,
Constructions & Maintenance Department,
Maduranthagam,
Chenglepet District.



WEB COPY



W.P.No.25422 of 2022

G.K.ILANTHIRAIYAN. J.

rts

W.P.No.25422 of 2022
W.M.P.No.24403 of 2022

23.02.2024