



W.A.(MD)No.1139 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2024

CORAM:

THE HONOURABLE **MR.JUSTICE R.SURESH KUMAR**

AND

THE HONOURABLE **MR.JUSTICE G.ARUL MURUGAN**

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and

C.M.P.(MD)No.8684 of 2024

- 1.The State of Tamilnadu,
Rep. by its Additional Chief Secretary
to Government,
Environment and Forest Department,
Secretariat, Chennai-600 009.
- 2.The Principal Chief Conservator of Forests
and Chief Project Director (TBGP),
Vellacherry Main Road,
Nanmangalam, Chennai-600 100.
- 3.The Principal Chief Conservator of Forests,
Head of the Department, Panagal Building,
Saidapet, Chennai-600 015.
- 4.The District Forest Officer,
Madurai Forest Division, Madurai-625 002.

... Appellants

-Vs-

D.Karthikeyan

... Respondent



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PRAYER: Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 30.08.2023 made in REV.APLW.(MD)No.171 of 2023 on the file of this Court.

For Appellants : Mr.N.Satheesh Kumar,
Additional Government Pleader
For Respondent : Mr.M.Saravana Kumar

JUDGMENT

[Judgment of the Court was delivered by *R.SURESH KUMAR, J.*]

This Writ Appeal has been directed against the order passed by the Writ Court in REV.APLW(MD)No.171 of 2023, dated 30.08.2023.

2.The respondent had been working temporarily at the appellant Department for long years and in order to regularize the services of the respondent, he had approached the Writ Court by filing W.P.(MD)No.7675 of 2019, which was decided along with W.P.(MD)No.8429 of 2019 by the Writ Court by the order dated 05.01.2023. That order was sought to be reviewed by filing REV.APLW(MD)Nos.171 and 172 of 2023. The learned Single Judge decided the said review applications, as it is respectively filed against the order passed by the Writ Court dated 05.01.2023 in W.P.(MD)Nos.7675 and 8429 of 2019.



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3.In the present Writ Appeal, we are concern about REV.APLW(MD)No.171 of 2023.

4.The learned Additional Government Pleader appearing for the appellants would submit that insofar as the review application, which was disposed of through the impugned order, is concerned, the learned Single Judge has relied upon two communications of the appellant Department ie., 06.09.2017 and 09.03.2020, which, in fact, had been relied upon by the respondent before the Writ Court at the time of hearing the review application. By citing these two letters of the appellants, it was the claim of the respondent before the Writ Court at the review application stage that these communications had been issued by the appellant Department only to get service particulars of the respondent and other similarly placed persons for the purpose of their regularization.

5.Therefore, the learned Single Judge, having relied upon only those two letters, has come to the conclusion that in the said two letters, it has been indicated that those service particulars are collected only for the purpose of regularization of their services. It was directed by the learned Single Judge through the impugned order that the case of the 1st respondent / writ petitioner



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shall be considered and appropriate orders for grant of regularization shall be passed within a period of twelve weeks.

6. Therefore, assailing the said order, the learned Additional Government Pleader would submit that insofar as the letters dated 06.09.2017 and 09.03.2020 are concerned, they had not suggested that collection of service particulars, which are sought to be collected from the employer ie., lower authority of the appellant Department, is meant for any regularization. This has been communicated in the order itself. In support of his contention, he relied upon the letter dated 09.03.2020 issued by the office of the 3rd appellant, where in the operative portion, it has been stated as follows:-

“Further, as the requested service details are to be utilized for administrative purpose the controlling officer concerned are requested to ensure that the service details are sent after careful analysis of records and the details are provided without any errors and omissions. Further, it is informed that in the event of any flaws or inaccuracy of facts identified in the future, any ramifications in that regard would be borne solely by the Controlling officer concerned. It may further be noted that mere collection of details at Headquarters would not ipso facto confer any rights of regularization and the individual should not be given any indication on that count.”



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7. Therefore, when it has been specifically stated by the learned Additional Government Pleader that collection of service particulars is not meant for any regularization purpose, the said reason, cited by the learned Single Judge in paragraph No.4 of the impugned order by rejecting the review application and giving direction to the appellant Department to regularize the services of the respondent and other similarly placed persons, is factually incorrect and therefore, it is triggered the appellant Department to prefer this Writ Appeal. Hence, he seeks indulgence of this Court to allow this Writ Appeal.

8. Per contra, the learned counsel appearing for the respondent would submit that it is not only on the basis of the letters dated 06.09.2017 and 09.03.2020 but also on the basis of the order passed by the Division Bench of this Court already issued in this regard, the respondent is entitled to get the regularization, which factor, in fact, had been considered by the learned Single Judge in the Writ Petition itself. Therefore, merely because the review is filed by the appellants, they cannot simply ignore the directions given by the learned Single Judge, while disposing of the Writ Petitions filed by the respondent and other employees, on the basis of independent merits of the case or otherwise also and therefore, the said contention raised by the learned Additional Government



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Pleader that merely based on these two letters, direction had been given by the learned Single Judge in the order impugned, may not be justifiable.

9.We have considered the rival submissions made on either side and perused the materials available on record.

10.In the present Writ Appeal, we are only confine to the correctness of the order passed by the Writ Court in REV.APLW(MD)No.171 of 2023, dated 30.08.2023.

11.Even though the ground, that had been raised by the appellants, who are the review applicants before the Writ Court, was in relation to the communication dated 13.04.2022 at the time of hearing the review application, it seems that on behalf of the respondent / writ petitioner it was brought to the notice of the learned Single Judge that by way of two communications, namely, 06.09.2017 and 09.03.2020, such an indication has been made that these service particulars are being collected only for the purpose of considering the regularization of the incumbents ie., the respondent employee.



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12.If that is the impression given before the Writ Court and that was accepted by the learned Single Judge, which is reflected in paragraph No.4 of the impugned order, after having gone through the letters, especially, the letter dated 09.03.2020, where it has been specifically mentioned that it may further be noted that mere collection of details at Headquarters would not *ipso facto* confer any rights of regularization and the individual should not be given any indication on that account, we are not in agreement with the view expressed by the learned Single Judge in the order impugned by giving such direction to regularise the services of the respondent only on the basis of these two letters dated 06.09.2017 and 09.03.2020.

13.Therefore, we are of the view that the reasons, stated by the learned Single Judge in dismissing the said review application and giving such direction to the appellant Department to regularize the services of the respondent only on the basis of these two letters, may not be acceptable. Therefore, it is liable to be interfered with. Hence, the following orders are passed in this Writ Appeal:-

“that the order impugned is hereby set aside and the matter is remitted back to the Writ Court for re-consideration, where the Writ



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Court is requested to take up the review application and decide the same on merits and in accordance with law, of course, by allowing both the parties to put forth their cases by filing necessary supporting documents to that effect. So that a complete justice can be rendered on the issue raised in the present case.”

14. With these directions, this Writ Appeal is ordered accordingly. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.K., J.] & [G.A.M., J.]
12.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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