



W.A.(MD)No.406 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.11.2024

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MS.JUSTICE R.POORNIMA**

**W.A.(MD)No.406 of 2021
and
C.M.P(MD)No.1494 of 2021**

1.The Agricultural Production Commissioner,
The Secretary to Government,
Agricultural Department,
Fort St. George,
Chennai - 600 009.

2.The Director of Agriculture,
Chepauk, Chennai - 600 005.

3.The Joint Director of Agriculture,
Kattu Pudhukulam, Pudukkottai.

4.The Regional Account Officer (Audit),
Agricultural Department,
Pudhukkottai.

... Appellants / Respondents

Vs.

R.Savarimuthu

... Respondent / Petitioner



W.A.(MD)No.406 of 2021

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to set aside the order dated 26.11.2020 passed in W.P.(MD)No.16099 of 2014 and allow the writ appeal.

For Appellants : Mr.M.Siddharthan,
Addl. Government Pleader.

For Respondent : Mr.S.C.Herold Singh

JUDGMENT

(Judgment of the court was delivered by G.R.Swaminathan, J.)

The respondent herein, namely, R.Savarimuthu was appointed as Watchman under contingent category on 31.07.1976 in the office of the Divisional Agricultural Engineer, Agricultural Machinery Training Centre, Kudumianmalai. He was directed to work as Office Assistant in the office of the Deputy Director of Horticulture, Kudumianmalai vide proceedings dated 17.02.1982. He continued to work in that capacity till 31.08.2012. Though he was placed in time scale of pay, he was not given any retirement benefits. The writ petitioner sought regularization and disbursement of all consequential monetary benefits. His request was rejected by the Director of Agricultural Department, Chepauk, Chennai vide proceedings dated 02.05.2014. Challenging the same,



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Savarimuthu filed W.P.(MD)No.16099 of 2014. The writ petition was allowed on 26.11.2020. Questioning the said order, this intra-court appeal has been filed.

2.The learned Additional Government Pleader appearing for the Government reiterated all the contentions set out in the memorandum of grounds of the writ appeal. He pointed out that none of the government orders on which reliance has been placed will apply to the writ petitioner. He also pointed out that the writ petitioner had passed only 4th Standard. For a basic servant, the minimum qualification is pass in 8th Standard. Therefore, the writ petitioner's service in the post of Office Assistant cannot be regularized. The learned Additional Government Pleader appearing for the appellants called upon this Court to set aside the order impugned in this writ appeal and allow the writ appeal as prayed for.

3.We are not fully swayed by the said submissions of the learned Additional Government Pleader. It is true that G.O (Ms) No.52 Finance Department dated 14.01.1977 will not as such apply in the case of the writ petitioner. The said government order proposed bringing into



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regular establishment and inclusion in the Tamil Nadu last grade government service, those persons who had put in five years of service as on 01.04.1977 in the contingent category. The writ petitioner was appointed on 31.07.1976 and therefore, he obviously did not fulfil the requirements set out G.O.(Ms) No.52 dated 14.01.1977. But then, we cannot lose sight of the fact that the writ petitioner was appointed to work as Office Assistant vide proceedings dated 17.02.1982 and he continued to work in that post for close to 30 years. In effect, the petitioner had put in 36 years of service. To deny the benefits of regularization to such an employee would be a gross travesty of justice.

4.At the same time, we cannot lose sight of the fact that the writ petitioner had passed only 4th Standard and therefore, his service as a basic servant in the post of Office Assistant cannot be regularized. But then, for the post of Watchman which is the last grade, such a requirement need not be insisted upon. We also take note of the fact that the writ petitioner had enrolled himself with the employment exchange and he was duly sponsored by the employment exchange. His entry into service cannot be characterized as back door entry.



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5.If we apply the spirit of G.O.(Ms) No.52 dated 14.01.1977, we can conclude that the writ petitioner deserved to be brought into regular establishment and included in Tamil Nadu last grade government service on conclusion of five years with effect from 31.07.1976.

6.We, therefore, modify the order passed by the learned Single Judge and direct that the writ petitioner's service shall be regularized in the post of Watchman with effect from 31.07.1981. He shall be paid all consequential benefits accordingly. The benefits payable to the writ petitioner shall be settled within a period of four months from the date of receipt of a copy of this judgment.

7.The writ appeal is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.) & (R.P. J.)
07.11.2024

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G.R.SWAMINATHAN, J.
and
R.POORNIMA, J.

ias

To:-

- 1.The Agricultural Production Commissioner,
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