



W.P.(MD).No.8858 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.07.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.8858 of 2021

S.Karthikeyan

... Petitioner

Vs.

- 1.The Secretary to Government,
Public Works Department,
Fort St.George,
Chennai-9.
- 2.The Chief Engineer (General) and
Engineer in Chief,
Water Resource Organization (WRO),
Public Works Department,
Chennai-5.
- 3.The Executive Engineer,
Water Resource Organization (WRO),
Public Works Department,
Kundaru Water Basin Division,
Tallakulam,
Madurai-2.
- 4.The Special Executive Engineer,
Water Resource Organization (WRO),
Public Works Department,
Vaipparu Water Basin Division,
Virudhunagar.



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5.The Assistant Executive Engineer,
Water Resource Organization (WRO),
Public Works Department,
Kundaru Water Basin Division,
Kariapatti, Virudhunagar District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the 3rd respondent in Lr.No.tha1/217/2020 dated 26.02.2020 and quash the same as illegal and consequently direct the respondents to regularize the service of the petitioner on and after completion of 10 years of service.

For Petitioner : Mr.P.Ramachandran

For Respondents : Mr.D.Gandhiraj,
Special Government Pleader

ORDER

This writ petition has been filed to call for the records relating to the impugned order of the 3rd respondent in Lr.No.tha1/217/2020 dated 26.02.2020 and quash the same as illegal and consequently direct the respondents to regularize the service of the petitioner on and after completion of 10 years of service.



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2. The brief facts which are necessary for the disposal of this Writ Petition is as follows:-

The petitioner was initially appointed in the Nominal Muster Roll under the Assistant Executive Engineer, Water Resource Organization (WRO), Public Works Department, Kundaru Water Basin Division, Kariapatti, Virudhunagar District from 21.07.1999 and he is continuing in service till date. He has been working on the basis of daily wages as detailed below:

1999-119 days, 2000-114.5 days, 2001-69 days, 2002-90 days,
2012-246 days, 2013-311 days, 2014-312 days, 2015-262 days,
2016-79 days, Total working days= 1632.5 days.

He was also engaged on contract basis as detailed below:

2003-143 dyas, 2004-298 days, 2005-275 days, 2006-301 days,
2007-300 days, 2008-160 days, 2009-196 days, 2010-230 days,
2011-143 days, 2017-156 days. Total Working days was 2202 days.

Thus, he had served for a period of 1632.5 days on daily wage basis and 2202 days on contract basis. He had put in 10 years of service as on 01.01.2006



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and hence, he made a representation to the respondents seeking to regularize of his service in the respondent office. However, rejecting his claim impugned order came to be passed on 26.02.2020 by the 3rd respondent. Challenging the same, this writ petition came to be filed.

3. The learned counsel appearing for the petitioner submitted that, the petitioner has put in more than 10 years of service without any blemish continuously for a period of more than 2202 days and on that basis his service is entitled to be regularized by the respondents and pressed for allowing the writ petition.

4. The learned Special Government Pleader Mr.D.Gandhiraj, relying upon the counter affidavit filed by the respondents detailed the nature of job as served by the petitioner. The learned Special Government Pleader submitted that, the petitioner was engaged as the Nominal Muster Roll, particularly in on-going works. The basis of wages for the said period was paid on out turn and the similar persons including the petitioner were engaged only for the duration of completion of specific works and were not engaged in a sanctioned post in a



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continuous manner without any break in service as alleged by the petitioner and hence, the petitioner's claim for regularization has no legs to stand and pressed for dismissal of the writ petition.

5. Heard the learned counsels on either sides. Carefully perused the materials available on record.

6. For the purpose of convenience, the service of the petitioner with the respondent office as detailed in the counter affidavit is extracted as follows:

Year	Engaged as N.M.R in Kariapatti Sub Division (Days)	Engaged On Contract Basis by Private Contractors	
		Year	Days
1999	119	2003	143
2000	144	2004	298
2001	69	2005	275
2002	90	2006	301
		2007	300
		2008	160
		2009	196
		2010	230
		2011	143



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Total	422		
2012	246		
2013	311		
2014	312		
2015	262		
2016	79		
		2017	156
Total	1210	Total	2202
Grand Total	1632		

7. The materials available on record would reveal the fact that, the petitioner was neither sponsored by the employment exchange nor he was selected on a proper recruitment process. The details extracted supra would reveal that he was engaged only on contract basis by private contractors, intermittently during the period from 2013 - 2011 and then on 2017 to the total number of 2202 days particularly in the Kariyapatti Sub Division, he was engaged as NMR for certain intermittent period from 1999 to 2002 and thereafter, from 2012 to 2016 for a total number of 1210 days. An employee who is properly recruited in a recruitment process who has put in minimum of



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10 years of continuous service without any break in service is entitled to get regularized in terms of G.O.Ms.No.22, Personal and Administrative Reforms Department, dated 28.02.2006. However, in the instant case, it is needless to state that the petitioner had never served continuously without any break in service. The Hon'ble Supreme Court in the case of ***The Chief Executive Officer, Zila parishad, Thane and ors. vs. Santosh Tukaram Tiware and ors. reported in 2023 (1) SCC 456*** has dealt with a similar issue and has categorically held that the services of an employee who had been continuing from time to time by giving him an artificial break for several years will not be entitled for regularization.

8. Fully fortified by the aforesaid judgment, considering the fact that the appointment of the petitioner was purely on contractual basis, I do not find any merit in interfering with the impugned order dated 26.02.2020 passed by the 3rd respondent. Accordingly, this writ petition fails.



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9. Hence, this writ petition stands dismissed. There shall be no order as to costs.

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NCC : Yes / No
Index : Yes / No
Internet : Yes
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L.VICTORIA GOWRI, J.

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