



W.A.(MD)No.577 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 06.08.2024

CORAM

**THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN
AND
THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

**W.A(MD)No.577 of 2018
and
C.M.P.(MD)No.3241 of 2018**

1.The Government of Tamil Nadu,
represented by its Principal Secretary,
Public Works Department,
Fort St.George, Secretariat,
Chennai - 600 009.

2.The Chief Engineer,
WRO/PWD and Engineer in Chief,
Chepuak, Chennai - 600 005.

3.The Chief Engineer,
Public Works Department,
Madurai Region, Madurai - 625 002.

4.The Executive Engineer,
Water Resources Development Outfit,
Public Works Department,
Kothaiyar Basin Division,
Nagercoil, Kanyakumari District.



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5.The Engineer in Chief (Buildings),
Chief Engineer (Buildings),
Chennai Region and Chief Engineer (General),
Public Works Department, Chennai - 600 005.

... Appellants

vs

D.Sulochana Bai

...Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order of this Court dated 09.05.2017 passed in W.P(MD)No.3870 of 2015.

For Appellants : Mr.N.Ramesh Arumugam
Government Advocate
For Respondent : Ms.J.Anandha Valli

JUDGMENT

(Judgment of this Court was delivered by **C.V.KARTHIKEYAN.**)

This Writ Appeal had been filed questioning an order, dated 09.05.2017, in W.P.(MD)No.3870 of 2015, of a learned Single Judge, whereby, the claim of the Writ Petitioner to quash an order passed by the first respondent in the Writ Petition/Principal Secretary, Public Works Department, Government of Tamil Nadu, in Letter No.6126/C2/2014-2, dated 01.04.2014, and to direct the respondents to grant regularisation to the Writ Petitioner along with service benefits, was favourably considered.



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2.The facts of the case are that the Writ Petitioner, D.Sulochana Bai, was initially appointed as Casual Labour in the year 1999 and continued as nominal muster roll employee with regular fictional break. It was stated that she had been rendering continuous service in the office of the Executive Engineer, Water Resources Development Outfit, Public Works Department, Kothaiyar Basin Division, Nagercoil in Kanyakumari District from the year 1994. Her service register was opened in the year 2000. She claims that though she had been in employment from 1994, records reveal that she had been definitely in employment only from 1999.

3.The Writ Petitioner claimed that she had been in continuous employment from 1994 onwards. She had stated that the letter dated 01.04.2014 of the first respondent in the Writ Petition, wherein, it had been stated that only those employees, who had put in ten years of service, as on 01.01.2006, would be regularised would not be applicable to her. It had been further stated that reliance of the respondents to G.O.(Ms)No.22, Personnel and Administrative Reforms (F) Department, dated 28.02.2006, was misguided and therefore, she should be considered as being in



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continuous and regular employment under the fourth respondent in the Writ Petition.

4.The termination of the Writ Petitioner in the year 2014 was questioned in the Writ Petition. A learned Single Judge in the order had found as a fact that the Writ Petitioner had been in employment as a nominal muster roll only from the year 1999. It was also found as a fact that as on 01.01.2006, the Writ Petitioner had not put in ten years of service. But, however, the learned Single Judge had observed that the Writ Petitioner had earlier filed a Writ Petition in the year 2008 in W.P.(MD)No. 30251 of 2008 for a Mandamus seeking a direction that the Writ Petitioner should be considered as being in continuous employment and for regularisation of service. Orders were passed to consider such regularisation.

5.While examining the case of the Writ Petitioner, it had been observed by the learned Single Judge that though such an order had been passed by this Court, the respondents in the Writ Petition had not considered the said Writ Petition, but had waited till the Government Order



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aforementioned, namely, G.O(Ms)No.22, had been passed and thereafter, had claimed that the Writ Petitioner had not completed ten years of service as on 01.01.2006 and had terminated her service. Holding that the said act of the respondents does not withstand judicial scrutiny, the learned Single Judge had allowed the Writ Petition and had directed regularisation of the Writ Petitioner into regular service. This order of the learned Single Judge is now tested before this Court.

6.It is contended on behalf of the Writ Appellants that the Government Order is clear; that is straight forward; that it cannot be interpreted otherwise. The only interpretation that could be given was to determine whether as on 01.01.2006, an applicant or a worker had completed ten years of service. The Writ Petitioner had not completed ten years of service.

7.Admittedly, she had joined service in the year 1999 as a nominal muster roll and her service register was opened in the year 2000. As on 01.01.2006, therefore, viewed from any angle, either from the year 1999 or from the year 2000, she had not completed ten years of service.



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8.The other contention, which had been raised by the Writ Petitioner that she had actually been in employment from 1994, had also been considered by us. But, unfortunately, she had not produced any records to show that she had been in actual employment from 1994 till 1999. The earliest records date from 1999 only. The fact that a direction was issued by a learned Single Judge in W.P.(MD)No.30251 of 2008 to consider her representation would only imply that a respondents were also given the discretion to either consider her representation favourably or to take any other decision, which according to them, would be apt in the circumstances of the case. It cannot be considered as a direction to regularise the service of the Writ Petitioner without any discretion on the part of the respondents.

9.Any representation will have to be considered after giving due opportunity. But, the ultimate decision should rest with the appellants to either consider it favourably or to reject it. The Court can never give any direction to consider any representation in a particular manner, particularly, relating to service of a candidate. In view of this particular reason, since G.O.(Ms)No.22 supervenes and places a direct embargo on regularisation of



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an employee, who had not put in ten years of service as on 01.01.2006, we hold that the directions of the learned Single Judge will have to be interfered with and the Writ Appeal will have to be necessarily allowed.

10. Accordingly, the Writ Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

**[C.V.K., J] & [J.S.N.P., J]
06.08.2024**

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

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C.V.KARTHIKEYAN, J.

AND

J.SATHYA NARAYANA PRASAD

cmr

Judgment made in
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