



W.A(MD).No.881 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 17.10.2024

CORAM

**THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

W.A.(MD)No.881 of 2019

R.Saravanan

.... Appellant/Writ Petitioner

Vs.

1.The Government of Tamil Nadu

rep. by its Principal Secretary

Revenue Department

St.George Fort,

Chennai - 600 009.

2.The The Commissioner of Revenue

Administration

Chepauk,

Chennai - 600 005.

3.The District Collector

Kanyakumari District

Kanyakumari.

....Respondents/Respondents

1/10



W.A(MD).No.881 of 2019

PRAYER : Writ Appeal is filed under Clause 15 of the Letters Patent against the order passed in W.P.(MD)No.18456 of 2014, dated 11.07.2019.

For Appellant : Mr.R.Subramanian
For Respondent : Mr.N.Ramesh Arumugam,
Government Advocate

JUDGMENT

The Writ Appeal has been filed by the writ petitioner in W.P.(MD)No.18456 of 2014 aggrieved by the order, dated 11.07.2019, by which order, the learned Single Judge had dismissed the writ petition.

2. W.P.(MD)No. 18456 of 2014 had been filed in the nature of a Mandamus seeking a direction against the respondents therein to pass orders on a representation, dated 22.09.2014 and to regularise the services of the petitioner as Watchman in the Cycle Stand at the Collectorate, Nagercoil, with effect from 10.05.1999. The writ petitioner placed reliance on G.O.(Ms)No.22, Personnel and Administrative Reforms (F) Department, dated 28.02.2006. He also placed reliance on the interpretation of this Court in W.P.No.16110 of 2012 dated 26.06.2012.



W.A(MD).No.881 of 2019

3. The facts are that the petitioner was engaged as a Watchman on daily wages at the Cycle Stand in the Collectorate at Nagercoil, on and from 10.05.1999. It is contended that he had been continuously working in the said post. In the meanwhile, on 28.02.2006 G.O.(Ms)No.22, Personnel and Administrative Reforms (F) Department, came to be issued. It provided that those who had completed 10 years of service could be brought into regular service.

4. The name of the petitioner had been recommended by the first respondent, the Deputy Secretary to Government, Revenue Department, who had addressed a letter to the Additional Commissioner of Revenue Administration, dated 14.10.2005. In the said letter, the Officer had stated as follows:

“I am directed to invite attention to letters that and second cited and he request you to arrange to obtain and send the necessary proposal from the concerned Collectorate with full details of service particulars of the following individuals along with their service books, together with the recommendation of the Special Commissioner and Commissioner of Revenue Administration for



W.A(MD).No.881 of 2019

examination at Government level as no proposals/service particulars are available in Government in respect of them.”

In the annexure enclosed, the name of the petitioner was found in Sl.No.2 - R.Saravanan - Watchman - Kanyakumari District.

5. In G.O.(Ms)No.22, Personnel and Administrative Reforms

(F) Department, dated 28.02.2006, it had been provided as follows :

“2. Based on the announcement made by the Hon'ble Chief Minister on 08.02.2005, the Government direct that the services of the daily Wages employees working in all Government Departments who have rendered 10 years of service as on 01.01.2006 be regularised by appointing them in the time scale of pay of the post in accordance with the service conditions prescribed for the post concerned subject to their being otherwise qualified for the post.”

6. The request of the petitioner came to be rejected, on the ground that he had not completed 10 years of service as on 01.01.2006. That as a fact is correct, since he had joined service only in the year 1999. But however, the said G.O.(Ms)No.22, Personnel and Administrative



W.A(MD).No.881 of 2019

Reforms (F) Department, dated 28.02.2006 came to be examined by a Full Bench of this Court and the judgment of Full Bench is reported in **2024 (2) CTC 1 in M.Sivappa Vs. State of Tamil Nadu and Others**, wherein, very specifically owing to difference of opinion by the Division Benches whether on the stipulation of restrictions of completing 10 years of service as on 01.01.2006 could be insisted upon, the Full Bench had finally concluded as follows :

“38. In fine, we hold

(a) If it shown that the appointment is made to anyone of the 86 categories of posts enumerated in the Tamil Nadu Basic Service immaterial of the fact that whether such appointment is part-time or full-time, the employee would be entitled to the benefit of regularisation dehors G.O.Ms.No.74 dated 27.06.2013.

(b) If it is shown that the nature of employment is temporary and the requirement will cease to exist after a particular time, like those appointments that are made under various welfare schemes, it will then be open to the Government to engage temporary employees or part-time employees.



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W.A(MD).No.881 of 2019

39. *We conclude that the judgments in **State of Tamil Nadu. by its Secretary, Public Works Department, and another vs. S. John Charles and others**, W.A.Nos.2875 & 2644 of 2018, etc., dated 16.08.2019 and **State of Tamil Nadu rep by its Secretary to Government, Rural Development and Panchayat Raj Department and others vs K.Rajakrishnan**, W.A.(MD)No.836 & 837 of 2014, dated 05.07.2023 cannot be taken as laying down an inflexible rule of law that any part-time or temporary employee who has completed 10 years of service on 28.02.2006 will not be entitled to regularisation. The benefit of regularisation will depend on the nature of the job and the fact that whether the post falls within any one of the 86 categories mentioned in the Special Rules for Tamil Nadu Basic Service.”*

7. The only issue, therefore, which will have to be examined is whether the appellant herein/writ petitioner would come under anyone of the 86 categories mentioned in the Special Rules for Tamil Nadu Basic Service.



W.A(MD).No.881 of 2019

8. The learned counsel for the writ appellant forwarded the Special Rules for Tamil Nadu Basic Service, which contains an annexure containing the category of services which would be classified as coming under the Special Rules for Tamil Nadu Basic Service.

9. In the said list, Sl.No.11 is “*Watchman*”. The petitioner is actually working as a Watchman in the Cycle Stand at the Collectorate in Nagercoil. Naturally, he comes under one of the categories as stipulated as the Tamil Nadu Basic Service. The benefit under G.O.(Ms)No.22, Personnel and Administrative Reforms (F) Department, dated 28.02.2006, has flowed to him irrespective of number of years which he had completed as on 01.01.2006.

10. In view of that particular reason, we would set aside the order of the learned Single Judge and allow the Writ Appeal and direct the respondents to pass necessary orders bringing the petitioner service into regular service and pay the emoluments as are required to pay from the date on which the petitioner was brought into regular service, namely, 10.05.2009. The said proceedings may be issued and the emoluments



W.A(MD).No.881 of 2019

may be paid within a period of 12 weeks from the date of receipt of a copy of this order.

11. Accordingly, Writ Appeal stands allowed and therefore, the order of the learned Single Judge is set aside and the Writ Petition stands allowed. The respondents are directed to pass necessary orders bringing the petitioner service into regular service and pay the emoluments as are required to pay from the date on which the petitioner was brought into regular service, namely, 10.05.2009. The said proceedings may be issued and the emoluments may be paid within a period of twelve (12) weeks from the date of receipt of a copy of this order. No order as to costs.

(C.V.K., J.) (R.P., J.)
17.10.2024

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



W.A(MD).No.881 of 2019

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