



**W.A.(MD)No.1116 of 2015**

**WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 04.01.2024**

**CORAM:**

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN  
and  
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN**

**W.A.(MD)No.1116 of 2015  
and  
M.P.(MD)No.2 of 2015**

- 1.The Secretary to Government,  
Public Works Department,  
Government of Tamil Nadu,  
Secretariat, Chennai – 9.
- 2.The Chief Engineer,  
Public Works Department,  
Chepauk, Chennai – 5.
- 3.The Special Chief Engineer,  
Public Works Department,  
Periyar – Vaigai Project,  
Tallakulam, Madurai – 2.
- 4.Executive Engineer,  
Maintenance and Quality Control Division,  
Public Works Department,  
Tallakulam, Madurai – 2.

... Appellants

vs.

M.Mani

... Respondent



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**PRAYER :** Writ Appeal filed under Clause 15 of the Letters of Patent, against the order dated 05.06.2021, in W.P.(MD)No.12319 of 2011.

For Appellants : Mr.D.Sachikumar  
Additional Government Pleader

For Respondent : No Appearance

### **JUDGMENT**

**DR.G.JAYACHANDRAN, J.  
and  
C.KUMARAPPAN, J.**

This appeal is filed by the State, being aggrieved by the order passed by this Court in W.P.(MD)No.12319 of 2011, dated 05.06.2014.

2. The sum and substance of the impugned order is that the respondent/writ petitioner, who joined as a driver in the Public Works Department, was regularized in the year 1989 pursuant to the order passed by the Government in G.O.(Ms)No.2394, Public Works Department, dated 29.11.1989 and direction of this Court in a Writ Petition filed by one K.Kasinathan. The respondent/writ petitioner retired from service on 31.12.2001. Thereafter, he made representation

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to relate back his regularization from 1981, the date on which, he joined as driver on daily wage basis. Since the same was rejected, the respondent/writ petitioner filed W.P.(MD)No.12319 of 2011. The said Writ Petition was allowed by this Court, vide order dated 05.06.2014, wherein the State was directed to fix the pay of the respondent/writ petitioner on par with other persons, who were absorbed on completion of 10 years of service from the date of their appointment as drivers.

3. In this appeal, the learned Additional Government Pleader appearing for the State/appellants submitted that the respondent initially, joined as a Helper in the Manjalar Dam Division and later, appointed as Cleaner. Thereafter, based on G.O.Ms.No.461, Public Works Department, dated 15.03.1980, *ad hoc* rules were framed and under the *ad hoc* rules, he served as a driver. While so, the Public Works Department taking note of the requirement of permanent drivers on a particular pay scale, issued G.O.(Ms)No.2394, dated 29.11.1989, wherein 22 persons, who satisfied the conditions enumerated in the Government Order, were appointed taking into consideration their past experience in the Department as daily wagers on an *ad hoc* basis without possessing the requisite educational qualification. The respondent/writ petitioner – M.Mani is one among the 22



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persons and from that date onwards, his service has been regularized and retirement benefits were also given to him. While so, after retirement, citing his earlier representation, which was duly rejected by the Department, the Writ Petition has been filed to relate back his date of regularization from 1981.

4. As rightly pointed out by the learned Additional Government Pleader appearing for the appellants, without requisite qualification, on an *ad hoc* and daily wage basis, the respondent/writ petitioner has been served as a driver and cleaner. His appointment as driver was only pursuant to G.O.(Ms)No.2394, dated 29.11.1989. His past service on *ad hoc* and daily wage basis without adequate qualification, cannot be reckoned for the purpose of pensionary benefits or any other service benefits. The learned Judge has failed to take note of the fact that the respondent's earlier service prior to 29.11.1989 is neither based on proper process of requirement or in tune with service rules. It was purely temporary and on *ad hoc* and daily wage basis. There is no provision in the service law to consider the intermittent service as daily wagger. In fact, there is no material placed by the respondent/writ petitioner to even infer that how he was appointed and when he was appointed and how long he was serving as a driver in the Public Works Department prior to 29.11.1989.



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**WEB COPY** 5. Having waited for more than 12 years, after his appointment, a request for considering his past service as daily wager, cannot be entertained without any supporting documents. In the impugned order, without any basis, the Writ Petition has been allowed and therefore, the order passed by the learned Judge, has to be set aside. Accordingly, it is set aside and the Writ Appeal is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No  
NCC : Yes / No  
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**[G.J., J.] [C.K., J.]**  
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**DR.G.JAYACHANDRAN, J.**  
**and**  
**C.KUMARAPPAN, J.**

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