



Writ Petition No.12807 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 16.06.2025

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

Writ Petition No.12807 of 2015

- 1.V.Rajendran
- 2.L.Vivtor
- 3.T.Dhananchezhiyan
- 4.M.Venugopal
- 5.K.Khader Basha
- 6.R.Sankar
- 7.J.Jayakumar
- 8.P.Chandrasekar
- 9.P.Jayashankar
- 10.M.Ravi
- 11.V.Kumar
- 12.D.Senthil Kumar
- 13.R.Shankar
- 14.S.Edward Williams
- 15.K.Palani
- 16.J.Ramesh
- 17.S.Nagarathinam
- 18.L.Ayyappa Palani
- 19.S.Shankar
- 20.M.Venkatesan
- 21.S.Kumar
- 22.M.P.Murugesan
- 23.M.P.Mohan
- 24.B.Rajamani
- 25.V.Manikandan
- 26.J.Lokesh Kumar
- 27.M.Elumalai

...Petitioners



Writ Petition No.12807 of 2015

Vs

1.The State of Tamil Nadu,
Rep. by its Secretary,
Municipal Administration and Water supply Department,
Fort St. George, Chennai – 600 009.

2.The Commissioner,
Corporation of Chennai,
Rippon Building, Chennai – 3.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for records relating to the first respondent's order made in G.O.382 dated 22.07.2010 and that of the consequential proceedings of the 2nd respondent made in E.Po.Thu.Na.Ka.No.M7/7816/99 dated 27.07.2010 to quash to the extent the same denies regularization from the date of their initial appointment and to consequently direct the respondents to regularize the services of the petitioners from the date of their initial appointment with all consequential benefits including pension and other pensionary benefits thereto taking the total period of service as qualifying services for the said purpose and to extend all benefits forthwith thereto.

For Petitioners : Mr.L.Chandrakumar
For Respondents : Mr.S.Rajesh
Government Advocate for R1
Mr.D.B.R.Prabhu for R2



Writ Petition No.12807 of 2015

ORDER

WEB COPY

Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the 1st respondent and Mr.D.B.R.Prabhu appearing for the 2nd respondent.

2. The brief facts that are relevant for disposal of the Writ Petition are as under:

All the petitioners herein who were appointed as driver on temporary basis in the second respondent Corporation approached this Court on an earlier occasion by filing W.P.No.27020 of 2008 seeking a writ of mandamus directing the respondents to grant permanency to the petitioners with all other attendant and service benefits w.e.f 06.03.2000, i.e., the date on which they were engaged on temporary basis as the driver in the second respondent Corporation. A co-ordinate Bench of this Court, taking note of the fact that the petitioners herein who were sponsored through employment exchange and were appointed as temporary drivers, directed the second respondent to send a proposal to regularise the services of the petitioners herein to the first respondent, seeking permission to regularise the service of the petitioners and further directed the first respondent to consider the same



and pass appropriate orders there on. The operative portion of the said order

dated 30.04.2009 reads as under:

10. *It is an admitted fact that 28 petitioners in W.P.No.27020 of 2008 had put in long continuous service without any break and they were also sponsored through employment exchange and after assessing their ability only, they were appointed temporary drivers. In view of the long and continuous service put up by them, they are also entitled to be regularised, of course subject to other conditions.*

11. *In view of the stand taken by the second respondent, the following order is passed:*

Both the writ petitions are disposed of and the second respondent may send proposals for regularisation of service of 64 persons who are member of the petitioners association in W.P.No.9059 of 2006 as well as 28 petitioners in W.P.No.27020 of 2008 to the first respondent seeking permission for regularisation of service, within two weeks from the date of receipt of copy of the order. On receipt of such proposals from the second respondent, the first respondent is directed to consider the same and pass orders on merits and in accordance with law, within a period of six weeks thereafter. As regards the fixation



WEB COPY



Writ Petition No.12807 of 2015

of seniority between Class IV employees, who are working as drivers and in respect of 28 temporary drivers, the question of seniority is left open and the second respondent may decide the same at an appropriate time.

3. In terms of the above order, the second respondent herein submitted proposals and accordingly the Government issued orders in G.O.Ms.No.382, dated 22.07.2010 permitting the second respondent to regularise the service of the petitioners, however, from the date of issuance of the said order i.e 22.07.2010. Consequently, the second respondent issued proceedings dated 27.07.2010 regularising the services of the petitioners w.e.f 22.07.2010. Aggrieved by the said G.O.Ms.No.382, dated 22.07.2010 and the consequential proceedings dated 27.07.2010 issued by the respondents, the petitioners approached this Court by filing present writ petition contending that the petitioners are entitled for regularisation of their services from the date of initial appointment and not from the date of issue of the order by the Government.

4. The learned counsel appearing for the petitioners also placed



WEB COPY

reliance on various orders issued in different departments regularising the services. The respondent filed a counter affidavit contending that the petitioners are not sponsored by the employment exchange and therefore the relevant rules have been relaxed with reference to age limit and accordingly the petitioners are permitted to be regularised and therefore they are not entitled for regularisation from the date of their initial engagement and the Government rightly issued order directing for regularisation from the date of issuance of Government Order. Further it is also stated that the names of the petitioners are not sponsored by the employment exchange and they are not entitled for retrospective regularisation.

5. The only reason assigned in the counter affidavit for not extending the benefit of regularisation from retrospective date is that the petitioners are not sponsored by the employment exchange. From the perusal of the paragraph No.10 of the order, dated 30.04.2009 in W.P.No.27020 of 2008, it is clear that this Court having taken note of the admitted facts including the sponsoring of the names of the petitioners through employment exchange for their engagement on temporary basis in the second respondent Corporation only issued directions as noted above in



paragraph No.11 of the said order.

WEB COPY

6. Once this Court has taken note of the factual situation and recorded a finding that the names of the petitioners were sponsored through employment exchange for the engagement as drivers on temporary basis, it is not open for the respondent now to contend that the names of the petitioners were not sponsored by the employment exchange. Therefore, the only reason that is sought to be assigned in the counter affidavit to sustain impugned Government order is found to be factually incorrect. The counter affidavit further states that if the petitioners were given retrospective regularisation, it would affect the seniority of the regular drivers and while disposing of the previous writ petition, this Court specifically granted liberty to the second respondent herein to fix the seniority.

7. Mr.L.Chandrakumar, learned counsel appearing for the petitioners also fairly submitted that the petitioners are not serious about the seniority aspect and are serious about regularisation of their services i.e., from the date of their initial appointment. The learned counsel placed



WEB COPY

reliance on decision of the Division Bench of this Court in *A. Baby Sabeena and others vs. State of Tamil Nadu, rep by its Principal Secretary, Public Works Department, Chennai – 9 and others* reported in (2014) 6 MLJ 210 and contended that the petitioners are entitled for similar benefit and retrospective regularisation of their services.

8. This Court has carefully perused the said decision relied upon by the learned counsel for the petitioners. A perusal of the same would show that the petitioners herein who were engaged on temporary posts are entitled for permanent status. Hence, this Court taking note of the same directed the second respondent to regularise the service from date on which, the petitioners are entitled for regularisation in the previous round.

9. Admittedly, there is no scheme providing unconditional or automatic right to regularisation. It was only pursuant to the order passed by this Court that the first respondent considered the case of the petitioners and permitted the second respondent to regularise their services. Various schemes have been framed by the Government, providing for regularisation upon completion of ten years of service by temporary employees. The case



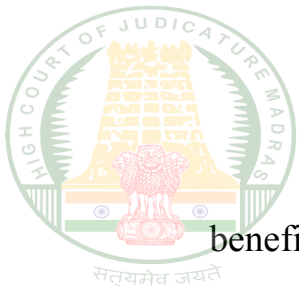
WEB COPY

relied upon by the learned counsel for the petitioners pertains to a Division Bench decision, where the services of temporary employees were directed to be regularised retrospectively from the date of completion of ten years of temporary service. However, monetary benefits were ordered to be granted only from the date of issuance of the relevant Government Order.

The relevant paragraph from the decision of the learned Division Bench reads as follows:

In fine, the Writ Appeals are allowed and the respondents are directed to notionally fix the pay of the appellants/petitioners retrospectively with effect from the date of completion of 10 years of service as NMRs, with monetary benefits from the date of the Government Order, dated 19.10.2007, as it has been extended to others in G.O.Ms.No.124, Public Works Department, dated 15.05.2008. Such exercise shall be commence and completed by the respondents, within a period of eight weeks from the date of receipt of a copy of this order.

10. In view of the above decision, this Court is of the considered view that the petitioners herein are also entitled to the same benefits as granted by the Division Bench namely, regularisation of service from the date of completion of ten years of temporary service, and monetary



Writ Petition No.12807 of 2015

benefits from the date of issuance of the impugned Government Order dated 22.07.2010.

11. Accordingly, this Writ Petition is allowed, directing the second respondent to regularise the service of the petitioners with effect from the date on which they completed ten years of temporary service and notionally fix the pay and monetary benefits from 22.07.2010. The second respondent is directed to complete the entire exercise as directed above as expeditiously as possible at any rate, within a period of three months from the date of receipt of a copy of this order. No costs.

16.06.2025

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
ub

To
1. The State of Tamil Nadu,
Rep. by its Secretary,
Municipal Administration and Water supply Department,
Fort St. George, Chennai – 600 009.

10/12



Writ Petition No.12807 of 2015

2.The Commissioner,
Corporation of Chennai,
Rippon Building, Chennai – 3.

MUMMINENI SUDHEER KUMAR, J.

ub



WEB COPY



Writ Petition No.12807 of 2015

W.P.No.12807 of 2015

16.06.2025