



W.P.No.732 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2025

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.732 of 2018

S.Narendra Kumar

... Petitioner

Vs.

1.Government of Tamil Nadu,
Rep. by Agricultural Production Commissioner,
and Secretary to Government,
Agriculture Department,
Secretariat, Chennai 600 009.

2.The Chief Engineer,
(Agricultural Engineering)
No.328, Anna Salai,
Nandanam, Chennai 600 035.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent relating to the order in Lr.No.6204/AA3/2017-2, Agriculture (AA 3) Department dated 15.06.2017 to quash the same and to issue consequential directions to the respondents to regularise the services of the petitioner further 06.10.1997 with all consequential benefits.



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W.P.No.732 of 2018

For Petitioner : Mr.M.Ravi
For Respondents : Mr.A.M.Ayyadurai, GA

ORDER

This Writ Petition has been filed to call for the records of the first respondent relating to the order in Lr.No.6204/AA3/2017-2, Agriculture (AA 3) Department dated 15.06.2017 to quash the same and to issue consequential directions to the respondents to regularise the services of the petitioner further 06.10.1997 with all consequential benefits.

2. Heard Mr.M.Ravi, learned counsel for the petitioner, Mr.A.M.Ayyadurai, learned Government Advocate for the respondents and perused the materials available on record.

3. The petitioner claims that he is one among the beneficiary of G.O.Ms.No.138, Agriculture (A.A.III) Department dated 20.03.1995. The said Government Order has been issued on 20.03.1995 to regularise 104 NMRs shown in the annexure who were engaged as Irrigation Community Organisers and who are covered under O.A.Nos.1652 &1653 of 1993, 3633 of 1994, 4103 and 4104 of 1994. The relevant clause of



W.P.No.732 of 2018

the said Government Order is extracted hereunder:

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"4(i). The 104 NMRs as shown in Annexure to this order who were engaged as Irrigation Community Organisers and who are covered under the OAs 1652 and 1653/93, 3633/94, 4103 and 4104/94 shall be given preference whenever direct recruitment is made to the posts for which direct recruitment has been prescribed, subject to satisfying the other qualifications prescribed for appointment to those posts and subject to other things being equal."

4. The petitioner claims that he should also be one of the beneficiary under the said Government Order, but he has not been included. Stating so, he has filed an Original Application before the Tamil Nadu Administrative Tribunal in O.A.No.5664 of 1998. An order has been passed in the above Original Application on 17.06.2002 by giving him the benefit of G.O.Ms.No.138 dated 20.03.1995. The petitioner also filed a writ petition in W.P.No.29436 of 2004 and in the said Writ Petition, an order has been passed on 12.10.2004, to extend the benefits of G.O.Ms.No.138, dated 20.03.1995 within two months time.

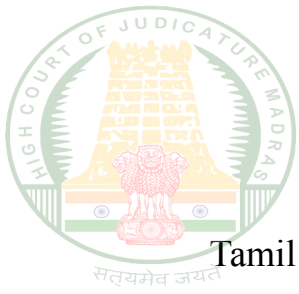


W.P.No.732 of 2018

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5. Thereafter, the Government has passed an order on 20.06.2005 by regularising the service of the petitioner with effect from 30.06.2005 and thereafter, the petitioner gave a representation stating that his services should be regularized on par with other persons who are covered under G.O.Ms.No.138 dated 20.03.1995. As the representation was not considered, the petitioner has filed a Writ Petition in W.P.No.41879 of 2016. An order has been passed in the said Writ petition on 29.11.2016 by directing the respondents to consider the representation of the petitioner. After considering the petitioner's representation, the impugned order has been passed by stating that the petitioner's services cannot be regularised with effect from 06.10.1997 on par with other Irrigation Community Organisers.

6. The learned counsel for the petitioner submitted that the petitioner has all along challenged his non-inclusion in the Government Order in G.O.Ms.No.138 dated 20.03.1995 and got an order from the



W.P.No.732 of 2018

Tamil Nadu Administrative Tribunal in his favour and that has also got confirmed by the order of this Court in a subsequent Writ Petition filed by the petitioner.

7. The learned Government Advocate for the respondents submitted that the petitioner was dis-engaged during August 1995 and appointed as Assistant Engineer based on the Court direction only in the year 2005. During the interregnum, (i.e) from 1995 to 2005, he did not work in the Department.

8. However, the learned counsel for the petitioner submitted that the scheme itself was in existence till 1998. According to the petitioner, he was working at the time when he filed the original application before the Administrative Tribunal. The petitioner was in service and only thereafter, the scheme was stopped.

9. Taking into account of the Government Order in G.O.Ms.No.138 dated 20.03.1995, a consequential Government Order



W.P.No.732 of 2018

has been issued for selecting 21 Irrigation Community Organisers by issuance of G.O.Ms.No.417 dated 06.10.1997. They were regularised by issuing G.O.Ms.No.94 dated 26.05.2012. So far as this petitioner is concerned, his date of regularisation has been given as 30.06.2005. The petitioner cannot deny the fact that in G.O.Ms.No.138, dated 20.03.1995 also it has been stated that regularisation of casual employment is subject to the availability of the work and that those persons will be preferred when the regular vacancies in the Department for which they are fully qualified. That would only convey that the persons for whose benefit G.O.Ms.No.138 dated 20.03.1995 has been issued are not engaged in one and the same department.

10. Only in view of that, the subsequent Government Order has been issued in G.O.Ms.No.417 dated 06.10.1997 by selecting 21 persons out of 104 persons identified in G.O.Ms.No.138 dated 20.03.1995. Admittedly, the petitioner's name does not find place in G.O.Ms.No.417 dated 06.10.1997. Even during the year 1998, the petitioner has filed an Original Application before the Tamil Nadu Administrative Tribunal for



W.P.No.732 of 2018

giving him the benefit of G.O.Ms.No.138 dated 20.03.1995.

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11. It is not a question of giving him the benefit of the above Government Order, but it is a question from when onwards he is given with the engagement as that of other Irrigation Community Organisers who were selected on 06.10.1997. In case, there are no vacancies available and if the selection process is not initiated, the petitioner could not compel the Government to issue an appointment order immediately. Even for that purpose, the petitioner ought to have established before the appropriate forum that the vacancies were available during the relevant point of time, but for the reasons best known to the respondents, the petitioner who was covered under G.O.Ms.No.138 dated 20.03.1995 have not been absorbed.

12. It is a clear-cut submission of the learned Government Advocate for the respondents that after the scheme came to an end, the petitioner got his re-engagement on further selection in the regular post only in the year 2005. On that score, his name has been included in the later Government Order in G.O.Ms.No.94, dated 26.05.2012 by



W.P.No.732 of 2018

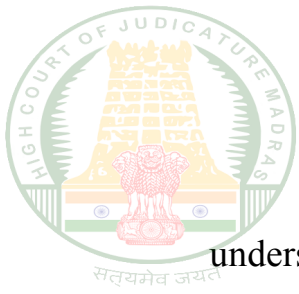
regularising his services on and from 30.06.2005.

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13. It is not the contention of the petitioner that as that of those persons who have been selected in the year 1997 he was also got selected any time between 1997 and 2005. Even according to his submission, the scheme itself has come to an end in 1998. Hence, it goes without saying that all those casual workers who have been engaged in the scheme have lost their employment.

14. Though the right of preference would have been available to the petitioner and like others in view of the G.O.Ms.No.138 dated 20.03.1995, without establishing the date of his next appointment or absorption as that of other persons who have been included in G.O.Ms.No.417 dated 06.10.1997, the petitioner cannot claim that he was also one among the selectees, but his regularisation has been given at the later point of time.

15. The petitioner has been giving different interpretation to G.O.Ms.No.138 dated 20.03.1995, without giving a comprehensive



W.P.No.732 of 2018

understanding to the Government Order and the subsequent developments. The scheme itself has come to an end in the year 1998.

Hence, I do not find any merits in the contention raised by the petitioner and hence, the impugned order does not require any interference.

16. In the result, this Writ Petition is dismissed. No costs.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
gsk

19.02.2025

To

1.The Agricultural Production Commissioner
and Secretary to Government,
Agriculture Department,
Secretariat, Chennai 600 009.

2.The Chief Engineer,
(Agricultural Engineering)
No.328, Anna Salai,
Nandanam, Chennai 600 035.



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W.P.No.732 of 2018

R.N.MANJULA, J.

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W.P.No.732 of 2018

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