



W.P. No. 14446 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2025

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

W.P. No. 14446 of 2018

and

W.M.P. No. 17057 of 2018

P.Chellappan

... Petitioner

-VS-

1. Government of Tamil Nadu
Represented by its Principal Secretary
Rural Development & Panchayat Raj Department
Fort St. George, Chennai-600009.
2. The Commissioner of Rural Development
Having office at Panagal Maaligai
Saidapet, Chennai-600015.
3. The District Collector
Namakkal District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the entire records which culminated in passing the order bearing reference No.Na.Ka.No. Nee/31333/2005 dated 10.04.2016 of the third respondent, consequential order bearing letter No.26332/ PaA-5/2016-2 dated 11.12.2017 of the 1st respondent and quash the same and consequently direct the respondents to pay all consequential monetary benefits including payment of pension by taking into account the period of regularization of service of the petitioner in the cadre of Night Watchman as 31.03.1994 within a time limit that may be fixed by this Court.

For Petitioner : Mr.P.Ganesan

For Respondents : Mr.J.Chezian, AGP (RR1 to 3)



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ORDER

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This writ petition has been filed challenging the order bearing reference in Na.Ka.No.Nee/31333/2005 dated 10.04.2016 of the third respondent, consequential order bearing letter No.26332/ PaA-5/2016-2 dated 11.12.2017 of the 1st respondent and consequently, direct the respondents to pay all consequential monetary benefits including payment of pension by taking into account of the period of regularization of service of the petitioner in the cadre of Night Watchman as 31.03.1994.

2. Heard Mr.P.Ganesan, learned counsel for the petitioner and Mr.T.Chezhian, learned Additional Government Pleader for the respondents and perused the materials placed on record, apart from the pleadings of the parties.

3. The petitioner has been appointed as Night Watchman through the employment exchange by the third respondent during the year 1984. Thereafter, by giving the benefit of the G.O. Ms. No. 267, Rural Development Department dated 22.12.1999, the petitioner's services has been regularized and the order to that effect was also issued on 26.06.2000. However, the petitioner claims that he has been given with the regularization order upon completion of 10 years of service as



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on 31.03.1994, but the third respondent cancelled the regularization order on 10.04.2006 and revised the regularization order by giving effect from the date of the Government order and not from the date of the completion of 10 years of service.

4. The learned counsel for the petitioner submitted that similarly placed persons have already filed a writ petition in W.P. No. 19365 of 2007 challenging the cancellation of the regularization and giving effect to the date of regularization on the date of the Government order and the said petition was allowed and the petitioners regularization have been restored to the original date of regularization, i.e., from the date of completing 10 years of service.

5. However, Mr.T.Chezhiyan, learned Additional Government Pleader for the respondents submitted that the petitioner has joined service in the year 1984 and she has completed 16 years of service as in the year 2000 and his services have been regularized, in pursuant to the G.O. Ms. No.161, Rural Development Department dated 26.06.2000. He has further submitted that this scheme itself has been brought for regularization only by virtue of the Government Order dated 26.06.2000 and in response to that, the petitioner has been regularized through the proceedings of the third respondent dated 25.07.2000. In the said order, the date of completion of 10 years of service has been stated just to prescribe his qualification



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for regularization and the petitioner cannot construe that as the date of effect of regularization.

6. Attention was also drawn to the clarification given on this aspect through the Government letter dated 19.03.2002. Hence, the revised regularization order has been issued by considering the date of regularization from the date of issuance of the G.O.Ms. No. 161, Rural Development (E7) Department dated 26.06.2000.

7. The fact that the petitioner was brought under the regularized services is not in dispute and that the petitioner has completed 10 years of service as on the date when he was issued with the order of regularization on 25.07.2000 is also not denied. The only contention raised by the learned counsel for the petitioner is that his entitlement for regularization is, on and from the date of completion of 10 years of service as stated in the proceedings dated 25.07.2000 and the subsequent cancellation was made as an after thought.

8. In this regard, it is appropriate to refer the earlier judgment of this Court in W.A. Nos. 168 and 169 of 2012 dated 08.08.2014. In the said appeals also, similarly placed person like the petitioner claimed that their date of regularization should be given effect from the date of the completion of 10 years of service and not from the date of Government Order.



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9. Insofar the eligibility for regularization is concerned, the petitioner had been accorded the eligibility immediately after the completion of 10 years of service.

The scheme to regularize the services of the persons like petitioner has also made it as an essential condition for the purpose of regularization. Under the scheme one ought to have completed 10 years of service. So the completion of 10 years of service is the minimum eligibility for regularization. Only by understanding the impact of regularization in the right perspective, the petitioner's regularization order has been issued on 25.07.2000 by considering the date of effect of regularization on and from 31.03.1994 (which is from the completion of 10 years of service). The petitioner's continuation in temporary service is only because the delay on the part of the respondent in absorbing the petitioner and similar others in regular posts for want of vacancy. Creation of vacancies by the respondent department is only to accommodate the petitioner in the said post by taking into consideration of completion of 10 years of service.

10. Immediately after completion of 10 years of service, the petitioners have acquired the eligibility to become the regular employees. In such case, the benefit of regularization should also relate back to the date of completion of 10 years of service. When similarly placed persons have got the above benefit through the earlier judicial proceedings, the petitioner cannot be put on a different footing.

Depriving the petitioner to enjoy the above benefit would amount to



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discriminating them from similarly placed persons who got the advantage of not

losing the service excess of their 10 years, for the purpose of this service benefit.

Since the petitioner should also be treated equally under equal circumstances, I feel it is appropriate to grant the relief as prayed by the petitioner.

11. In view of the same, the writ petition is allowed. The order in letter No.26332/ PaA-5/2016-2 dated 11.12.2017 passed by the first respondent is set aside and the first respondent is directed to restore the original regularization order which was issued on 26.06.2000 with effect of regularization from 31.03.1994 and pass orders to that effect and disburse the service benefits accrued to the petitioner consequent to the order of restoration. No costs.

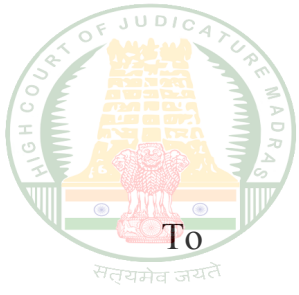
06.02.2025

Index: Yes/No

Internet: Yes/No

Speaking /Non-speaking order

Maya



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To

WEB COPY

1. The Principal Secretary to Government of Tamil Nadu
Rural Development & Panchayat Raj Department
Fort St. George, Chennai-600009.
2. The Commissioner of Rural Development
Having office at Panagal Maaligai
Saidapet, Chennai-600015.
3. The District Collector
Namakkal District.



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R.N.MANJULA, J.

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