



W.P.No.18456 of 2018

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2025

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.18456 of 2018

R.Venkatesan

... Petitioner

Vs.

The Chief Conservator of Forests & Director,
Aringar Anna Zoological Park,
Vandalur, Chennai 600 048.

... Respondent

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 respondents proceedings C.No.2790/2015/E2 dated 14.07.2017 and Na.Ka.No.2790/2015/Pa2 dated 23.04.2018 and quash the same and direct the respondent to regularise the service of the petitioner from 01.02.1999 within a time frame.

For Petitioner : M/s.K.Bharathi

For Respondent : Mr.S.Rajesh, GA



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ORDER

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This Writ Petition has been filed to call for the records of the respondents proceedings C.No.2790/2015/E2 dated 14.07.2017 and Na.Ka.No.2790/2015/Pa2 dated 23.04.2018 and quash the same and direct the respondent to regularise the service of the petitioner from 01.02.1999 within a time frame.

2. Heard M/s.K.Bharathi, learned counsel for the petitioner, Mr.S.Rajesh, learned Government Advocate for the respondent and perused the materials available on record.

3. The petitioner was engaged as a daily wager in Aringar Anna Zoological Park, Vandalur on 27.07.1983. The petitioner's wife was also working as a Malli and she committed suicide on 30.06.1992. The petitioner was orally terminated by the respondent Management on 01.07.1992. In the criminal case filed against the petitioner in S.C.No.369/1997 in respect of his wife's death, he was acquitted on 27.10.1998. On 23.02.1998 the petitioner sent a letter to the respondent



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to regularise his services as he has been working for more than 10 years.

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As no orders have been passed, he filed a Writ Petition in W.P.No.40188 of 2016 seeking a Writ of Mandamus to consider his representation. In the said Writ Petition, an order has been passed on 23.11.2016 by directing the respondent to consider the petitioner's representation. The petitioner gave a fresh representation on 25.10.2017. But, it was rejected on 23.04.2018. Hence, the petitioner has filed this Writ Petition.

4. The learned counsel for the petitioner submitted that the petitioner is entitled to get his services regularised as he rendered more than 10 years of continuous service in the respondent Management. Even during the trial of the criminal case, the petitioner was allowed to work because the respondent Management did not have sufficient man power. The Management regularised 72 regular wagers in the year 1991. But the petitioner was listed in Serial No.62 in the seniority list of the year 1994 and 50 workmen were regularised in the year 1995. Despite the petitioner got acquitted in the criminal case on 27.10.1998, no order has been passed to regularise his services.



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4.1. Even in the year 2007, when 13 workers were regularised, the petitioner's name was not recommended. The petitioner has been working in all sincerity. One Elumalai who has also been similarly placed, has got his services regularised and for whose benefit a Government Order has been issued in G.O.(2D) No.17, Environment and Forest (FR V) Department, dated 14.03.2014 with effect from 01.04.1991. As the petitioner is also similarly placed, refusing to regularise his services is in violation of his right to equal opportunity.

5. The learned Government Advocate for the respondent submitted that the petitioner was working as a casual labourer from 27.07.1983 till 01.07.1992. In view of the criminal case filed against him, there was no continuity of service and he was once again stopped from 01.04.1997. Again he was given with the appointment as casual labourer on 29.06.1997. His name could not be included in the earlier list as there was a criminal case pending against him. Again the Management sent a proposal to the Government to regularise the services of the casual labourers including the petitioner. After he was acquitted from the



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criminal case, he was appointed as Animal Keeper and his services have been regularised on and from 30.09.2010. As there was a break in service for almost 4 years due to criminal case pending against him, his regularisation cannot be given effect any time before 30.09.2010.

5.1. The learned Government Advocate further submitted that the regularisation of daily wagers in this kind of matters is only in accordance with the orders if any obtained from the Court. As there was no work at some point of time, some casual workers by name Eranniappan and 6 others were stopped in the year 1986. They filed a case before the Labour Court and obtained the award for reinstatement. The appeal preferred by the Management was also dismissed by confirming the judgment of the Court. Only subsequent to that, orders have been issued in their favour in G.O.(2D).No.17 dated 14.03.2014 by giving regularisation with effect from 01.04.1991. As the petitioner did not have the regular service, he cannot claim similar benefit.



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6. The petitioner claims parity with some of the workers who were also engaged as daily wagers, got their regularisation with effect from 01.04.1991. The above persons were stopped in the year 1986. On filing the case before the Labour Court and got an award for reinstatement and later the Writ Petition filed by the Management challenging the above award of the Labour Court was also dismissed by confirming the award of the Labour Court, their services were regularised with effect from 01.04.1991.

7. Unlike others, the petitioner had suffered break in service for about four to five years from 02.07.1992 to 31.03.1996 and thereafter, from 01.04.1997 to 24.06.1997. The petitioner himself admits that he was charged with the criminal case consequent to the death of his wife. The petitioner was re-engaged on and off. He did not raise any industrial dispute despite he got his order of regularisation issued vide G.O.Ms.No.142, Environment and Forest (FR5) Department, dated 30.09.2010. By virtue of the said order, he got regularised with effect from 30.09.2010.



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8. The petitioner has fairly accepted the regularisation and acquiesced the same. The other persons whose regularisation has been made with effect from 01.04.1991 has got an award in their favour in the Labour Court which got confirmed later in the Writ Petition filed by the Management challenging the same. Hence, the petitioner cannot claim parity with those workers who got their case proved before the Labour Court and got an award and direction in their favour. The petitioner's break in service cannot be overlooked. Hence, the respondent cannot be directed to regularise the petitioner's service with effect from the year 1991 on par with other workers. Hence, this Writ Petition is liable to be dismissed.

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

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
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R.N.MANJULA, J.

gsk

To

The Chief Conservator of Forests & Director,
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