



W.A No. 2543 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-08-2025

CORAM

THE HON'BLE MR JUSTICE R. SURESH KUMAR

AND

THE HON'BLE MR.JUSTICE P. DHANABAL

W.A No. 2543 of 2025 AND
CMP NO. 20217 OF 2025

1. The Chief Engineer (Building)
Public Works Department, Chepauk, Chennai -5.
2. The Superintending Engineer, (Building)
Public Works Department, Chennai Circle, Chepauk,
Chennai - 5.
3. The Executive Engineer,
Public Works Department, Chepauk, Chennai -5.
4. The Assistant Executive Engineer,
Public Works Department, Marina Sub Division,
Chepauk, Chennai - 5.
5. The Assistant Executive Engineer,
Public Works Department, South West Sub Division,
Chepauk, Chennai - 5.

Vs

..Appellants

Chandra,
W/o. Sudhakar, No.44/23, Ram Nagar, 5th Street,
Triplicane, Chennai -5.

..Respondent

Prayer : Writ Appeal under Clause 15 of the Letters Patent to set aside the Order dated 28.01.2025 made in W.P.No.30669 of 2024.



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For Appellants : Mr. T. Chandrasekar,
Special Government Pleader

For Respondent : Mr.S.N.Ravichandran

Judgment
(Judgment of the Court was delivered by R.Suresh Kumar J.)

This intra Court appeal has been directed against the order passed by the Writ Court dated 28.01.2025 made in W.P.No.30669 of 2024.

2. The respondent herein was the writ petitioner who had been initially engaged as Sweeper under NMR category in the year 1982. It is the case of the respondent that she has been continuously working as Sweeper for several decades under the appellant Department. Since the services of the respondent / writ petitioner had not been regularized, she had filed an Original Application before the then State Administrative Tribunal in O.A.No.7391 of 1997 along with other similarly placed persons. The Tribunal, by order dated 13.11.2000, was pleased to issue a direction to consider the case of the petitioner and others on merits.

3. Pursuant to the order passed by the Tribunal, service records were opened for the respondent / writ petitioner and the first appellant, by letter dated 20.09.2004 directed the concerned authorities to employ the writ petitioner and others continuously in service.



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4. In the meanwhile, O.A.No.7391 of 1997 was transferred to this Court and renumbered as W.P.No.32117 of 2006. Though the said writ petition was dismissed on 12.6.2009, subsequently a review application in Rev.Appln(Writs) No.141 of 2009 filed by the writ petitioner was ordered on 24.10.2009, whereby the order dated 12.06.2009 was set aside and the appellant Department was directed to retain the services of the respondent / writ petitioner and also to consider their claim for regularization on the basis of G.O.Ms.No.22 P&AR Department dated 28.02.2006. Subsequently, the Executive Engineer vide letter dated 31.05.2010 requested the Superintending Engineer to take necessary action for regularizing the service of the petitioner and others, on completion of ten years of service. However, even then such a regularization has not taken place. Therefore, this situation triggered the petitioner to file yet another writ petition in W.P.No.23176 of 2023 seeking for a writ of Mandamus.

5. The said writ petition was disposed of with a direction to the appellant Department to consider the request of the writ petitioner by taking into account that the writ petitioner has rendered 42 years of services and therefore she is entitled for regularization. Since that order also was not considered, Contempt Petition No.1823 of 2024 was filed and only at that juncture, a rejection order came to be passed on



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13.09.2024 on the basis of G.O.Ms.No.74 P&AR Department dated 27.06.2013. That is how the matter once again came up before this Court in W.P.No.30669 of 2024.

6. The learned Writ Court, having considered all these factors and also taking into account the various Government Orders in G.O.Ms.No.334 dated 19.10.2007, G.O.Ms.No.134 dated 07.05.2010 and G.O.Ms.No.202 dated 01.08.2012, whereby hundreds of such daily wages or temporary employees working under NMR category have been regularized on completion of ten years of service, came to the conclusion that all these Government Orders reflect the consistent policy decision taken by the Government to regularize these kind of temporary employees on completion of ten years of service and has allowed the writ petition by order dated 28.01.2025. Aggrieved over the same, at the instance of the appellant Department the present intra court appeal has been filed.

7. Supporting the appeal and assailing the order impugned, the learned Special Government Pleader appearing for the appellant Department would contend that though the respondent / writ petitioner entered into service as a daily wager under NMR Scheme in the year 1982, she had not been continuously engaged by the Department and intermittently her services have not been utilized by the Department.



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8. In this context, the service particulars of the respondent / writ petitioner has been filed before this Court, wherein it is stated that in the following years she had been engaged.

<i>Year</i>	<i>No.of days engaged</i>
1982	92
1983	140
1984	212
2002	344
2003	348
2004	366
2005	365
2007	365
2008	358
2009	358
2010	359
2011	328
2012	354
2013	347
2014	343
2015	347
2016	348
2017	346
2018	349
2019	236
Total	6670



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9. Therefore, it is an admitted case on the part of the appellant Department that right from 1982 till 2019 and even today she has been continuously engaged, of course with intermittent non-engagement.

10. It is the submission of the learned counsel for the respondent / writ petitioner that after having rendered 42 years of service on temporary basis, the respondent / writ petitioner is attaining the age of superannuation in another less than two years as she is running 59 years as of now. Her work spot is the campus of the High Court. Whenever a demand came from several hundreds of such NMR employees, they have been regularized by issuance of Government Orders, of course in consonance with G.O.Ms.No.22, P&AR Department as referred to above as well as outside the scope of the said Government Order. Such a gesture, despite the order having been passed by the Tamil Nadu Administrative Tribunal as well as this Court has not been shown in favour of the writ petitioner. Therefore, it is a clear discrimination and that is the reason why the learned Judge has shown her indulgence in allowing the writ petition through the impugned order and hence it does not warrant an interference, learned counsel contended.

11. We have considered the rival submissions of both sides and have perused the materials placed on record.



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12. Insofar as engaging these kind of last grade servants by way of NMR scheme is not a new phenomenon in this State. It is a routine one which has been in practice for several decades especially in the Public Works Department. Such kind of engagement if it is made and such NMR employees are engaged for more than a decade, in order to protect their service conditions, the Government had taken a policy decision and issued G.O.Ms.No.22, P & AR Department referred supra. By the said Government Order, whoever completes ten years of service from the date of initial engagement as a daily wages employee or temporary employee on consolidated pay, after ten years of service they are entitled for regularization. That has been the policy decision reflected in G.O.Ms.No.22, P & AR Department and many number of such employees were regularized.

13. When that being the position, the Government has come forward in the year 2013 to issue G.O.Ms.No.74 P & AR Department dated 27.06.2013, whereby the benefits that were accrued under G.O.Ms.No.22 has been restricted by placing so many conditions under Clause 6 of the Government Order. In this context, it is to be noted that the validity of G.O.Ms.No.74 was questioned before this Court and the said Government Order especially Clause 6 of the Government Order has been quashed by this Court and the same has also been subsequently confirmed.



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14. In view of such quashing of the Government Order in G.O.Ms.No.74 dated 27.06.2013, the original position as was available under G.O.Ms.No.22, P & AR Department dated 28.02.2006 since got restored, citing the very same reasoning of G.O.Ms.No.74 passing the rejection order with respect to the plea raised by the writ petitioner through the order dated 30.09.2024 by the appellant Department is completely unjustifiable and unlawful. Therefore, we have no hesitation to hold that the approach of the learned Writ Court in allowing the writ petition by setting aside the order dated 30.09.2024 passed by the appellant Department is fully justifiable.

15. As the last grade servants like the writ petitioner / respondent herein are mainly required to maintain the hygiene and clean atmosphere of any public institution, much less the High Court Campus where the requirement of such last grade servants are essentially required, which cannot be dispensed with even for a day. When that being so, the policy of the government which has already been taken in the year 2006 shall not be detrimental to the requirement and need of the Government as well as public institutions. Therefore, under the pretext of any technical reason, a last grade servant who rendered 42 years of service cannot be treated like this as has been projected in this case and she should not have been



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shown the door at the end of her service and that will be a great injustice, which no welfare State could be expected to undertake.

16. In that view of the matter and based on the aforesaid discussions, since the first respondent / writ petitioner had already been engaged as NMR in the year 1982 and even though there had been intermittent break as claimed by the appellant Department, till today she has been in continuous service or in engagement. Therefore, she is very much entitled to get the benefit of regularization as per G.O.Ms.No.22 and therefore, on completion of ten years of service from the date of her initial engagement, such regularization shall be undertaken and the respondent / writ petitioner since has been continuously working for all these years, of course on daily wage basis or consolidated wage basis, at least 50% of the time scale of pay can be given to the respondent / writ petitioner after deducting the pay already been received by her.

17. It is needless to mention that from the date on which such a regularization is made, her service benefits shall be calculated for the purpose of retirement benefits as well as pensionary benefits. These directions shall be complied by the appellant Department within a period of two months from the date of receipt of a copy of this order. The above directions, which we have given, are in



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addition to the directions already given by the learned single Judge in the impugned order and therefore the order passed by the learned Writ Court dated 28.01.2025 is sustained.

18. The writ appeal stands dismissed. No costs. In view of the two months time granted to comply with the order, till such time no coercive steps shall be taken by the respondent / writ petitioner.

(R.S.K.,J.) (P.D.B.,J.)
21-08-2025

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

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**R.SURESH KUMAR J.
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