



WEB COPY



W.P.No. 30669 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.01.2025

Coram:

THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.30669 of 2024

Chandra

Vs.

...Petitioner

1. The Chief Engineer (Buildings)
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
4. The Assistant Executive Engineer,
Public Works Department,
Marina Sub-Division,
Chepauk, Chennai – 5
5. The Assistant Executive Engineer,
Public Works Department,
South East Sub-Division,
Chepauk, Chennai - 5

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the entire records connected with the impugned order passed by the 1st respondent in Letter No.E4/003974/2024 dated



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13.09.2024 and quash the same and consequently direct the respondent to regularise the service of the petitioners on completion of 10 years of her services (i.e.) 30.09.1992, in accordance with G.O.No.22 dated 28.02.2006, with all consequential monetary and service benefits within a time frame.

For Petitioner : Mr.S.N.Ravichandran

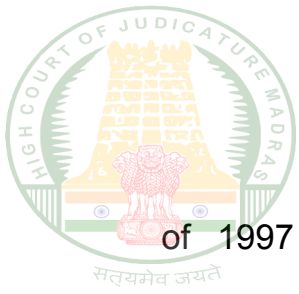
For Respondents : Mrs.V.P.R.Elamparithi for R1 to R5

ORDER

The present Writ Petition has been filed for an issuance of a Writ of Certiorarified Mandamus to call for the entire records connected with the impugned order passed by the 1st respondent in Letter No.E4/003974/2024 dated 13.09.2024 and quash the same and consequently direct the respondent to regularise the service of the petitioners on completion of 10 years of her services (i.e.) 30.09.1992, in accordance with G.O.No.22 dated 28.02.2006, with all consequential monetary and service benefits within a time frame.

2. The brief facts of the case, as averred by the petitioner are as follows:-

(i) The petitioner joined as non Mazdoor employee on daily wage basis under the control of the office of the Public Works Department in Chepauk on 01.10.1982. The petitioner has been continuously employed by the respondents/authority without any break and despite several years of service, the petitioner's service was not regularised. Hence the petitioner filed O.A. No.7391



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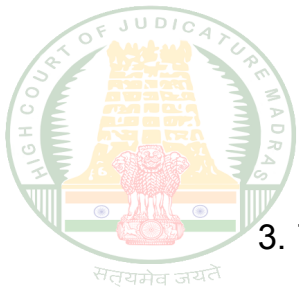
of 1997 along with the other similarly placed persons before the State Administrative Tribunal and by an order dated 13.11.2000, the Tribunal issued a direction to consider the case of the petitioner for regularisation on merits, and the same been done in the case of applications in O.A.No.3776 of 1990 and O.A.No.4078 of 1990. (ii) Pursuant to the order passed by the Tribunal, service records were opened and the 1st respondent by his letter dated 20.09.2004 directed the concerned authorities to employ the petitioner and others continuously in service and the O.A.No.7391 of 1997 preferred by the petitioner was transferred to this Court and renumbered as W.P.No.32117 of 2006 and by an order dated 12.06.2009, this Court dismissed the Writ Petition on the ground that the petitioner and others were not in the employment. As against the same, the petitioner preferred review application in Rev.Appln (Writs) No.141 of 2009 and by an order dated 24.10.2009, this Court modified the order dated 12.06.2009 with a direction to retain the review applicants in service and to consider their claim for regularisation on the basis of G.O.Ms.No.22 P&AR Department dated 28.02.2006. Consequently, 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, only a person, namely, Kala issued order of regularisation on completion of ten years of service. Once again the petitioner



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made a representation seeking for regularisation of service, since there is no response, the petitioner filed W.P.No.23176 of 2023 for a direction.

(iii) The above said Writ Petition was disposed of and the same was communicated to all the respondents. Though the petitioner has rendered 42 years of service, she was not regularised and serving only on a daily wage basis. Therefore, the petitioner filed Contempt Petition no.1823 of 2024, in order to circumvent the same, the 1st respondent vide order dated 13.09.2024, rejected the claim on the basis of G.O.Ms.No.74P & AR Department dated 27.06.2013. The reasons assigned by the 1st respondent is untenable and unsustainable in law. The Hon'ble Full Bench of this Court held that the said G.O., is prospective in nature and it will not apply retrospectively and the reason assigned by the 1st respondent for rejection of petitioner is without any application of mind. The Government has regularised the service of 1076 NMR, on completion of 10 years of service by G.O.Ms.No.334 dated 19.10.2007 and 746 NMR were regularised on completion of 10 years of service vide G.O.No.134 dated 07.05.2010 and again the Government regularised the service of 222 NMR on completion of 10 years vide G.O.Ms.No.202 dated 01.08.2012. Despite several orders and even after completion of 10 years of continuous service, the respondents have failed to regularise the service of the petitioner, hence this petition.



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3. The learned counsel for the petitioner would submit that the petitioner is working as a sweeper and rendered 42 years of service with blemishless record of service to the best of her ability. Further, denial of regularisation has put her life in dark, thereby pleaded to allow the present petition.

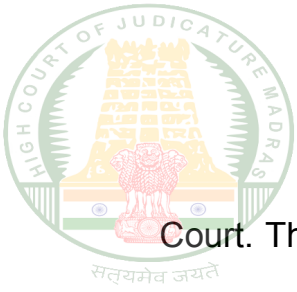
4. Per contra the learned counsel appearing for the respondents submits that the Judgment of this Court rendered in State of Tamilnadu rep. by the Secretary, Public Works Department in W.A.Nos.2875 and 2644 of 2018 dated 16.08.2019 and Secretary to Government, Rural Development and Panchayat Raj Department and Ors. Vs. K.Rajasekaran, W.A.(MD)No.836 and 837 of 2014 dated 05.07.2023 cannot be taken as laying down the inflexible rule of law. Any part-time or temporary employee, who has completed 10 years of service on 28.02.2006 will not be entitled to regularisation. The benefit of regularisation will depend on the nature of the job and the fact that whether the post falls within one of the 86 categories mentioned in the special rule for Tamilnadu Basic Service, thereby pleaded to dismiss the petition.

5. It is not in dispute that the services of the other Casual Labourers/NMRs whose services were similar to that of these petitioners, have been regularised, through the following Government Orders.



Sl.No	G.O.No and date	No of persons regularised	Order of the Court
i)	G.O.(2D)No.29 Public Works dated 09.02.2016 (C2) Department	5	W.P.No.37024 of 2006 dt.20.06.2012
ii)	G.O.(2D)No.13 Public Works dated 23.02.2018 (C2) Department	2	W.P.No.14941 of 2017 dt.15.06.2017
iii)	G.O.(2D)No.14 Public Works dated 23.02.2018 (C2) Department	6	W.P.No.9361 of 2017 dt.19.04.2017
iv)	G.O.(2D)No.40 Public Works dated 25.09.2018 (C2) Department	35	W.P.No.16107 of 2012 dt.04.07.2012

6. From the above said table, it is seen that pursuant to the orders passed by this Court, the Public Works Department have chosen it fit to implement the orders of this Court and have regularised the Casual Labourers/NMRs, who have completed ten years of service. Incidentally, the issue in the present writ petition was taken by this Court in W.P.No.24632 of 2018 and on 27.11.2018 had passed orders for regularising the services of these petitioners therein, who had completed ten years of service as Casual Labourer/NMRs. The issue was challenged by the Department in W.A (MD) No.686 of 2017 and which came to be dismissed on 12.07.2017 and the further appeal before the Hon'ble Supreme Court in SLP (Civil) Diary No.29276 of 2018 was also dismissed. Thus, the claim of the petitioner has already been settled through judicial orders, till the Supreme



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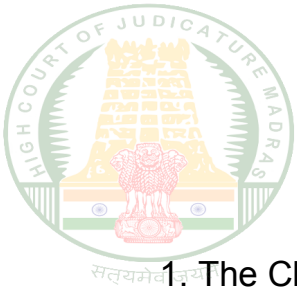
Court. Thus, the respondents, having regularised the similarly placed persons as that of the petitioner, who had also completed ten years of service and their entitlement for such a claim has already been confirmed by orders till the Supreme Court, the petitioner would also be entitled for such regularisation.

7. Considering all the above said facts and the fact that the petitioner has already completed 42 years of service, the impugned order dated 13.09.2024 on the file of the first respondent is hereby quashed. Consequently, there shall be a direction to the first respondent to forthwith pass orders, regularising the services of the petitioner from the respective date of completion of ten years of service, together with arrears of pay, continuity of service and other monetary benefits in accordance with G.O.No.22 dated 28.02.2006. Such orders shall be passed within a period of eight weeks from the date of receipt of a copy of this order.

In the result, the Writ Petition is allowed. No costs.

28.01.2025

Index : Yes / No;
Internet : Yes / No
Speaking Order / Non Speaking Order
ssd
To



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V.BHAVANI SUBBAROYAN, J.

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