



W.P.No.30868 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2025

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CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.30868 of 2023

C.Selvaraj

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Principal Secretary to the Government,
Environment and Forest Department,
Secretariat, Fort St.George,
Chennai – 600 009.
- 2.The principal Chief Conservator of Forest,
Head of the Forest Department,
Velachery Rd, Guindy, Chennai, Tamil Nadu – 600 032.
- 3.The District Forest Officer,
Cuddalore Forest Division,
Cuddalore.
- 4.The Forest Range Officer,
Cyclone Rescue Range,
Cuddalore.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the proceedings issued by the second respondent in



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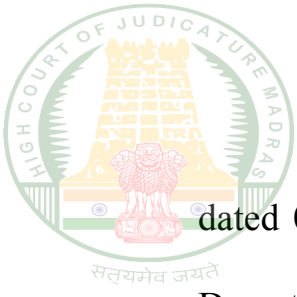
Proc..No.S2/17362/2023 dated 04.09.2023 and quash the same and consequently direct the respondents to regularise the service of petitioners as driver from the date of initial appointment in the light of W.P.(MD) No.11106 of 2013, dated 12.07.2017 confirmed in W.A.(MD)No.686 of 2017, SLP.No.29276 of 2018 dated 04.09.2018 implemented vide G.O.Ms.No.03 Environment and Forest Department dated 11.01.2019. Order made in W.P.No.2650 of 2019 etc., dated 12.06.2019, for 10 Drivers” similarly placed as that of the petitioner, confirmed in Order made in W.A.No.391 of 2020 etc., as against W.P.No.2650 of 2019 etc., and implemented vide G.O.Ms.No.8 Environment and Forest (FR.2.II) Department dated 22.01.2021 with all consequential service and monetary benefits.

For Petitioner : M/s.T.Dharani

For Respondents : Mr.S.Rajesh
Government Advocate

ORDER

The petitioner has filed this petition to call for the records relating to the proceedings issued by the second respondent in Proc..No.S2/17362/2023 dated 04.09.2023 and quash the same and consequently direct the respondents to regularise the service of petitioners as driver from the date of initial appointment in the light of W.P.(MD) No.11106 of 2013, dated 12.07.2017 confirmed in W.A.(MD)No.686 of 2017, SLP.No.29276 of 2018



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dated 04.09.2018 implemented vide G.O.Ms.No.03 Environment and Forest Department dated 11.01.2019. Order made in W.P.No.2650 of 2019 etc., dated 12.06.2019, for 10 Drivers” similarly placed as that of the petitioner, confirmed in Order made in W.A.No.391 of 2020 etc., as against W.P.No.2650 of 2019 etc., and implemented vide G.O.Ms.No.8 Environment and Forest (FR.2.II) Department dated 22.01.2021 with all consequential service and monetary benefits.

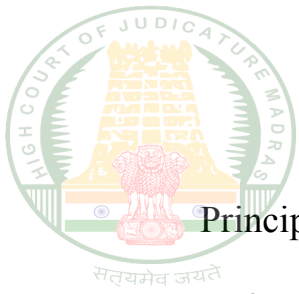
2. The case of the petitioner is that the petitioner was appointed as a Driver on daily wage basis from 01.04.2006 in Pitchavaram Range, Cuddalore District. Since the petitioner has worked as Driver for more than 10 years as daily wages with respondent department, he made a request before the respondents to regularize his service. However, the same was not considered. Hence, the petitioner has filed a writ petition before this Court in W.P.No.18320 of 2023, seeking regularization of service as Driver and this Court by its order dated 22.06.2023 issued a direction to the respondents to consider the petitioner's case, on receipt of fresh representation from him. Pursuant to which the petitioner made a fresh representation before the



respondents and the same was rejected by the second respondent vide Proc.No.S2/17362/2023 dated 04.09.2023 stating that the petitioner has not completed 10 years of service as on 01.01.2006 as per G.O.Ms.No.22 P & AR Department and not satisfied the essential conditions for regularisation of service as prescribed in G.O.Ms.NO.74, P & AR Department, dated 27.06.2013. Challenging the same, the petitioner has come forward with the present writ petition.

3. Learned counsel for the petitioner would submit that the matter is no longer res-integra and the same is covered by the dictum laid down by the Madurai Bench of this Court in W.P.(MD)No.11106 of 2013 dated 12.07.2017 and also the order passed by this Court in W.P.No.9274 of 2021, dated 20.09.2023. Hence, he prayed for allowing this writ petition.

4. Learned Government Advocate appearing for the respondents would submit that the representation letter of the petitioner as per the order of this Court was received on 29.08.2023. Thereafter, on perusal of his application and other relevant documents and service particulars, it was submitted to the



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Principal Chief Conservator of Forests, Chennai vide this office

Ref.No.5248/2023/E, dated 30.08.2023:

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Sl. No	Date from which engaged		Total working periods			Details of break service		Total Break in service			Total net working service period as on date		
	From	To	Y	M	D	From	To	Y	M	D	Y	M	D
1	Apr-06	Nov-07	1	8	0	--	--	--	--	--	1	8	0
2	Dec-07	Mar-2010	--	--	--	120107	033110	2	4	--	0	0	0
3	Apr-2010	Mar-2011	1	0		0	--	--	--	--	1	0	0
4	Mar-13	March-2014	1	1		--	--	--	--	--	1	1	0
5	Apr-14	Jul-14				--	--	--	4	--	--	--	0
6	Aug-14	Mar-15	0	8	0	--	--	--	--	--	0	8	0
	Apr-15	Jun-15				040115	063015	--	3	--	--	--	--
7	Jul-15	Mar-16	0	9	0			--	--	--		9	0
8						Total period		4	10		5	2	0

5. Learned Government Advocate appearing for the respondents would submit that in view of the above, the service particulars of the petitioner



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Thiru.C.Selvaraj, daily wage driver has been carefully examined with respect to applicable rules and guidelines and it is found that the petitioner was not initially appointed on full time basis in consultation with the employment exchange to discharge the function of the post and he has not completed 10 years of service as on 01.01.2006.

6. Learned Government Advocate appearing for the respondents would submit that the petitioner was not recruited through Employment Exchange as a condition stipulated in para (ii) of G.O.(Ms)No.74, Personnel and Administrative Reforms Department, dated 27.06.2013. Further, he has not completed 10 years of service in daily wage capacity on the cutoff date 01.01.2006 to claim regularization of service as a condition stipulated in para 6(vii) of G.O.(Ms)No.74, Personnel and Administrative Reforms Department dated 27.06,2013, it is clear that the petitioner does not satisfy the modalities for regularization set by G.O.(Ms)No.22, Personnel and Administrative Reforms Department dated 28.02.2006 and conditions stipulated i n para (ii), (iv) and (vii) of G.O.(Ms)No.74, Personnel and Administrative Reforms



Department, dated 27.06.2013.

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7. Learned Government Advocate appearing for the respondents would submit that the Principal Chief Conservator of Forests (Head of Forest Force), Chennai has issued the following order:-

"The request of the petitioner Thiru C.Selvaraj to regularize his service from the date of joining, together with all consequential benefits in accordance with G.O.(Ms) No.22, P&AR Department, dated 28.02.2006 and G.O.(Ms)No.74, P&AR Department, dated 27.06.2013 has been examined. The petitioner's request is contrary to orders in W.P.(MD) No.11106 of 2013, dated 01.12.2016 confirmed in W.A.(M) No.686 of 2017 and Special Leave Petition No.29276 of 2018, dated 04.09.2018, implemented vide G.O.Ms.No.3, Environment and Forests Department, dated 11.01.2019 and order made in W.P.No.2650 of 2019 etc., dated 12.06.2019 for 10 Drivers similarly placed as that of the petitioner, confirmed in the order made in W.A.NO.391 of 2020 as against W.P.No.2650 of 2019 etc., and implemented vide G.O.Ms.No.8, Environment and Forests (FR.2.(II) Department, dated 22.01.2021 with all consequential service and monetary benefits.

The petitioner Thiru.C.Selvaraj has joined in the post of Temporary Driver and worked from 01.04.2006 to 31.03.2016 but he has total break in service for a period of four years 10 months and he has completed temporary service period of 05 years and 02 month only with in the above mentioned period.



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Therefore, the petitioner's request is not feasible for compliance as he does not meet the prescribed criteria.”

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8. Heard the learned counsel on either side and perused the materials available on record.

9. The Madurai Bench of this Court while dealing with the same issue in W.P.(MD)No.11106 of 2013 dated 12.07.2017 had allowed the writ petition in favour of the petitioner's therein and the same was confirmed in W.A.(MD)No.686 of 2017 and S.L.P.No.29276 of 2018 dated 04.09.2018. It is pertinent to extract the relevant portion of the order in W.P.(MD)No.11106 of 2013 dated 12.07.2017 and the same reads as follows:

“7. The primary and core issue is that whether the petitioner is entitled to regularisation or not? The petitioner is been inducted into service on 15.10.1997 and still discharging his duty which is not denied by the respondents which will prove that the petitioner is in continuous employment and his service is essential and un-dispensable one. The second respondent while sending the proposal has categorically held that the petitioner has put in 13 years and 8 months of service and also sought for relaxation of rules in order to regularise his service. But, the first respondent has rejected the proposal on the sole



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ground that they have not completed 10 years of service as on 01.01.2006 vide G.O.Ms.No.22, P & A.R. Department dated 28.02.2006 but there is no reply or refusal in regard to the extension of the benefit given to others by the Government Advocate.

8. After utilising the petitioner's service for more than 13 years and still utilising as on date is shocking the conscious of this Court. Further, the respondents are liable as they have extracted the service of the petitioner and based on principles of promissory estoppel and legitimate expectation, the impugned order is liable to be quashed in so far as the petitioner is concerned. Further the petitioner is not entitle to the regularisation from the date of initial appointment but only from the date of completion of 10 years of service.

9. In the result:

(a) the writ petition is allowed by setting aside the impugned order passed by the first respondent in his proceedings in Letter No.15393/வார்டு-2/2012-9 dated 09.05.2013, so far as the petitioner is concerned;

(b) the respondents are hereby directed to regularize the service of the petitioner from the date of completion of 10 years service and pay back all the service and monetary benefits to the petitioner;

(c) the respondents are directed to complete the said exercise within a period of three months from the date of receipt of a copy of this order. No costs."

10. It is also pertinent to extract the relevant portions of the order



passed by this Court in a similar issue in W.P.No.9274 of 2021 dated

20.09.2023 and the same reads as follows:

“16. As rightly contended by the learned counsel for the petitioner, as per G.O.(2D).No.154, dated 26.09.2022, Thiru. B. Rajan and K.Chinnapaiyan, for regularizing the services of daily wage drivers as Drivers and in this case also, no one was recruited through Employment Exchange, and were regularized by the first respondent, in exercising the power conferred under Sections 58 of the Government Servants (Conditions of Service) Act, 2016 (Reservation in appointment) and relaxing the rule 2 (mode of appointment) rule 4 (regarding age) of the Tamil Nadu Forest Subordinate Service (Special Rules) Rule 12 as a special case; as per G.O.(2D).No.130, dated 08.06.2023, one Rathinasabapathi; and as per G.O.(Ms).No.44, dated 03.03.2023, one B.Prakash and nine others, were also regularized, from the date of completion of 10 years of service excluding the break in service periods by relaxing Section 27 of the Government Servants (Conditions of Service) Act, 2016 (Reservation in appointment) and relaxing the rule 2 (mode of appointment) rule 4 (regarding age) of the Tamil Nadu Forest Subordinate Service (Special Rules) Rule 12, as a special case. Therefore, the Government had decided to accord permission from the Principal Chief Conservator of Forests, to regularize the services of the individuals, who have already working as daily wage drivers as regular Drivers from the date of completion of 10 years of service as a special case and to allow them to utilize all the monetary benefits from the date of



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completion of 10 years.

17.From the above facts, it is crystal clear and evident that the Government has regularized the many similar persons like the petitioner herein, who worked as daily wage drivers as drivers after the completion of 10 years of service by relaxing the age and other qualifications, by exercising the power under Section 27 and Section 58 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016. But, in the case of the petitioner, his request for regularization was rejected, from which, it shows that this is a clear case of discrimination and the same is in violation of Article 14 & 21 of the Constitution of India. In the case of regularization, some of the similarly placed persons were also not sponsored by the Employment Exchange, but, however, they were all regularized by relaxing the rules mentioned supra. The same principle and yardstick has to be applied to the petitioner in the instant case. Hence, this Court is of the considered view that the order passed by the first respondent dated 04.12.2010 is liable to be quashed and the same is hereby quashed.

18.In the result, the Writ Petition stands allowed and the first respondent is directed to regularize the petitioner-s service from the date of his initial appointment i.e., from 01.02.2001 and to pay all monetary and other service benefits, within a period of eight weeks from the date of receipt of a copy of this order. No costs.”

11. In view of the ratio laid down by the Madurai Bench of this Court in W.P.(MD)No.11106 of 2013 dated 12.07.2017, which was subsequently



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confirmed in W.A.(MD)No.686 of 2017 and S.L.P.No.29276 of 2018 dated 04.09.2018, and also the order passed by this Court in W.P.No.9274 of 2021, dated 20.09.2023, order passed by the second respondent in proceeding Proc.No.S2/17362/2023 dated 04.09.2023 is liable to be quashed. Accordingly, the same is quashed.

12. In the result, this writ petition stands allowed and the respondents are directed to regularize the service of the petitioner as driver from the date of initial appointment i.e., 01.04.2006 and to pay all consequential service and monetary benefits, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

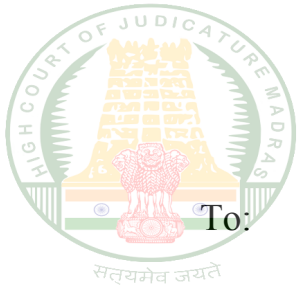
21.01.2025

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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

J.SATHYA NARAYANA PRASAD,J.

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To:

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- 1.The Principal Secretary to the Government,
Environment and Forest Department,
Secretariat, Fort St.George,
Chennai – 600 009.
- 2.The Principal Chief Conservator of Forest,
Head of the Forest Department,
Velachery Rd, Guindy, Chennai, Tamil Nadu – 600 032.
- 3.The Conservator of Forest,
Villupuram Circle,
Villupuram.
- 4.The District Forest Officer,
Villupuram Forest Division,
Villupuram.

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