

W.P.(MD)No.6053 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.03.2025

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THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)No.6053 of 2025
and
W.M.P(MD)Nos.4442 to 4444 of 2025

1.A.Mansoor Ahamed

2.M.Thungu Abdul Razak

3.K.Syed Vajeethu

4.I.Jainulabudeen

... Petitioners

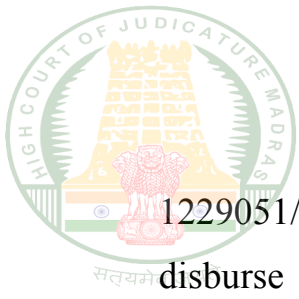
Vs.

1.The State of Tamil Nadu,
Rep by its Principal Secretary to Government,
Backward Classes, Most Backward Classes and
Minorities Welfare Department,
Secretariat, St.George Fort,
Chennai 600 009.

2.The Chief Executive Officer,
Tamil Nadu Waqf Board,
Chennai – 600 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, call for the records relating to the impugned order passed by the first respondent vide his proceedings in Letter No.



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1229051/S2/2021-4, dated 05.02.2025 and quash the same as illegal and disburse all the service and monetary benefits strictly in conformity with the proceedings of the second respondent in Proc.No.10773/E1/2006-2, dated 26.07.2018, within the time that may be stipulated by this Court.

For Petitioner : M/s.A.Ashika

For R1 : Mr.D.Sachi Kumar
Additional Government Pleader

For R2 : Mr.K.K.Kannan
Standing Counsel

ORDER

This writ petition has been filed against the order passed by the first respondent vide proceedings in Letter No.1229051/S2/2021-4, dated 05.02.2025 and for a consequential direction to declare the probation of the petitioner and disburse all the service and monetary benefits in conformity with the proceedings of the second respondent, dated 26.07.2018 within a time frame.

2. It is the contention of the learned counsel for the petitioner that the petitioners were working as Waqf Inspectors at various places appointed by the second respondent. They were appointed on different dates in the year 2008 and 2009. Initially they were appointed as contingent staffs (Junior Assistant) by the second respondent. They were working for the past more than 16 years. They



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were qualified for the post of Waqf Inspectors. The second respondent vide his proceedings, dated 03.01.2017 sought for permission to fill up the various posts in the Waqf Board and to regularize the service of the petitioners. In response to the same, the first respondent vide proceedings dated 04.05.2017, informed the second respondent that the Waqf Board is an Autonomous body and the appointing authority for the post of Junior Assistant is the Tamil Nadu Waqf Board. Therefore, regularization of the employee of the Waqf Board by the State Government would not arise. Since there was no action to absorb the service of the petitioners, they filed a writ petition in W.P(MD)No.6606 of 2016. While so, considering the long length of service of the petitioners, the second respondent vide proceedings, dated 26.07.2018 regularized the service of the petitioners in the cadre of Junior Assistant/Waqf Inspectors in furtherance of the Board resolution Item Nos.51/2018 and 52/2018. In pursuant to the same, the petitioners withdrew the writ petition. The second respondent vide proceedings dated 12.05.2020 sanctioned annual increment to the petitioners with effect from 01.04.2020. Even some of the employees availed the encashment of earned leave. For all the petitioners, service registers were opened and service particulars were duly recorded. Even though the service of the petitioners were regularized way back on 26.07.2018, the benefits arising thereof was not yet disbursed. The petitioners made several representations in that regard. It was



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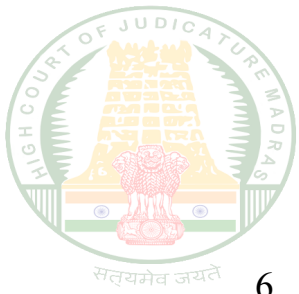
evoked with no response. The petitioners submitted a representation to the second respondent on 14.10.2024 seeking for declaration of probation and other benefits. But the same was not responded. The second respondent sought concurrence from the first respondent as regards the regularization and the same was rejected by the first respondent vide Letter No.1229051/S2/2021-4, dated 05.02.2025. Against the said order, the present writ petition is filed.

3. The learned counsel for the petitioner would submit that the impugned order is bad in law on the sole ground that the second respondent is competent authority to regularize the service of the petitioners and the concurrence of the first respondent is not at all required. She further contends that as long as the order of regularisation stands as such the benefits thereof cannot be declined by the second respondent. She further contends that the reason assigned in the impugned order that the appointment of the petitioners were not made either through paper publication or through employment exchange is not correct. The appointment of the petitioners was made in pursuant to the paper advertisement and in the online also, notification was published and as such, the reason in the impugned order is only misconceived and she sought to quash the impugned order.



4. Heard the learned Additional Government Pleader for the first respondent and the learned Standing Counsel for the second respondent and carefully perused the materials available on record.

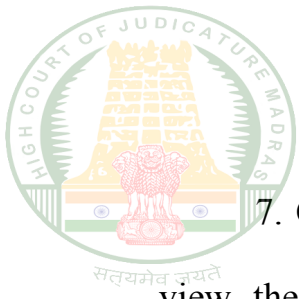
5. On careful perusal of the order impugned in this writ petition, it reveals that it is an internal communication between the first respondent and the second respondent. It appears that the second respondent appointed the petitioners in their Waqf Board and they sought concurrence from the first respondent to regularize the service of the petitioners. The said regularization was rejected by the first respondent on the ground that the petitioners were not appointed either through employment exchange or through any newspaper advertisement during 2007 to 2009 through direct recruitment. It is also stated in the said communication that the method of appointment and the regularization done is in violation of the Employment Exchange (Compulsory Notification of Vacancies) Act, 1959. It is also mentioned in the said order that as per G.O.(Ms)No.790, Labour and Employment, Department dated 05.07.1971, orders were issued that appointments made in Government and Government affiliated institutions after the date of publication of the order shall not be regularized and those who have not been appointed through the employment exchange should be terminated from service.



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6. Now, the petitioners, who are appointed as Junior Assistant by the second respondent and for whose regularization, the second respondent sought concurrence from the first respondent filed this writ petition. In fact, if the impugned order is against the Autonomous status of the second respondent, originally they need not sought concurrence from the first respondent. If the first respondent issued impugned proceedings without considering the autonomous status of the second respondent, it has to be again submitted before the first respondent for reconsideration. If the second respondent issued any consequential proceedings subsequent to the proceedings impugned in this writ petition, the petitioners will be entitled to approach this Court. Admittedly, no consequential orders are passed by the second respondent pursuant to the Letter No.1229051/S2/2021-4, dated 05.02.2025 issued by the first respondent. If the second respondent has any grievance against the impugned Letter No.1229051/S2/2021-4, dated 05.02.2025, they ought to have approached this Court. All these petitioners directly approached this Court against the Letter No.1229051/S2/2021-4, dated 05.02.2025 issued by the first respondent to the second respondent.



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7. Considering the facts and circumstances of the case, in my considered view, the writ petition filed by the petitioners is premature and it is liable to be dismissed.

8. For the aforesaid reasons, the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

06.03.2025

NCC:yes/no
Index:yes/no
Internet:yes/no
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To:

- 1.The Principal Secretary to Government,
Backward Classes, Most Backward Classes and
Minorities Welfare Department,
Secretariat, St.George Fort,
Chennai 600 009.
- 2.The Chief Executive Officer,
Tamil Nadu Waqf Board,
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BATTU DEVANAND, J.

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