



W.A(MD)No.895 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 24.04.2025

PRONOUNCED ON : 24.06.2025

CORAM:

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.A(MD)No.895 of 2024
and
C.M.P(MD)No.6649 of 2024**

- 1.The State represented by,
The Secretary to Government,
Rural Development and Panchayat
Raj Department,
St. George Fort,
Chennai – 600 009.
- 2.The Commissioner,
O/o.Rural Development and Panchayat Raj,
Panagal Building,
Chennai.
- 3.The District Collector,
Karur District,
Karur.
- 4.The Commissioner,
O/o.Panchayat Union,
Krishnarayapuram,
Karur District.



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5.The Block Development Officer,
O/o.Krishnarayapuram Panchayat Union,
Krishnarayapuram,
Karur District.

... Appellants/Respondents

Vs.

K.Vadivel

... Respondent/Writ Petitioner

PRAYER : Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 05.02.2024 made in W.P(MD)No.4397 of 2021 on the file of this Court.

For Appellants : Mr.Veera Kathiravan
Additional Advocate General
Assisted by
Mrs.D.Farjana Ghousia
Special Government Pleader

For Respondent : Mr.H.Mohammed Imran
for M/s.Ajmal Associates

JUDGMENT

(Judgment of the Court was delivered by J.NISHA BANU, J.)

Challenging the order passed by the Writ Court dated 05.02.2024 in W.P.(MD)No.4397 of 2021, the respondents as appellants have filed the present Writ Appeal.

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2. The respondent/writ petitioner filed the Writ Petition seeking to quash the impugned proceedings passed by the first appellant dated 05.03.2018 and consequently to direct the appellants to regularize his services with effect from the date of his initial appointment, along with all other consequential monetary and service benefits.

3. The facts and circumstances giving rise to the filing of the Writ Petition are as follows:

3.1. The writ petitioner was initially appointed as a Watchman on 01.07.1991 through the employment exchange pursuant to a call letter issued by the fourth appellant. Though it was stated in the appointment order that the writ petitioner's appointment was temporary, it was intended to be made permanent, as the appointment was based on employment seniority. A service register was also opened and he was paid a regular time scale of pay. Subsequently, he was transferred and posted as a Night Watchman in the Krishnarayapuram Panchayat Union Office on 17.07.1992.



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3.2. Since his service was not regularized for a long period, the fourth appellant, by proceedings dated 17.08.2010, forwarded certain particulars to the third appellant for the purpose of regularization. As the said proposal was not acted upon, the writ petitioner filed W.P(MD)No.11146 of 2015 seeking a direction for regularization of his services. This Court, by order dated 11.02.2016, directed the third appellant to consider his representation in light of the fourth appellant's recommendation.

3.3. Pursuant to the same, the fifth appellant, by proceedings dated 04.03.2016, informed the writ petitioner that ratification from the Government was required to relax the age criteria at the time of appointment. Subsequently, the third appellant, by proceedings dated 19.03.2016, sent a proposal to the second appellant to regularize the writ petitioner's services, incorporating a request for relaxation of age.



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3.4. In the meanwhile, the writ petitioner attained the age of superannuation on 30.06.2016. Since his service was not regularized, no formal retirement order was issued and he was orally instructed not to report to duty. Thereafter, the second appellant, by proceedings dated 25.09.2017, sought directions and accordingly, the first appellant, by proceedings dated 26.09.2017, requested further particulars. The third appellant furnished the required particulars by proceedings dated 28.11.2017.

3.5. Despite this, no action was taken. Hence, the writ petitioner filed W.P(MD)No.360 of 2018 and this Court, by order dated 26.02.2018, directed the first appellant to pass final orders on or before 30.04.2018 based on the communication, dated 28.11.2017. Nevertheless, no action was taken. Ultimately, the first appellant, by the impugned proceedings dated 05.03.2018, rejected the writ petitioner's claim for regularization on the ground that his appointment was made after the issuance of G.O.(Ms)No.878, Rural Development Department, dated 15.05.1981 and his name was not included in G.O.(Ms)No.161, Rural Development and Panchayat Raj Department, dated 26.06.2000. Aggrieved by the said order, the writ petitioner filed the Writ Petition.



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4. The Writ Court, after considering the materials on record and upon elaborate discussion, allowed the Writ Petition. Aggrieved by the said order, the respondents as appellants have filed the present Writ Appeal.

5. The submissions of the learned Additional Advocate General appearing for the appellants are as follows:

5.1. The writ petitioner was temporarily appointed through the employment exchange on 01.07.1991 at Irumboothipatti weekly market. Subsequently, on 01.07.1992, he was appointed as a Night Watchman in Krishnarayapuram Panchayat Union under contingent service, on a time scale of pay. In the year 1993–94 Local Fund Audit, an objection was raised regarding his time-scale appointment without government approval, and increments were not granted thereafter. Despite this, the Panchayat Council passed a resolution on 18.09.1997 recommending him for the time-scale post in an unsanctioned position. G.O.(Ms)No.267, Rural Development Department, dated 22.12.1999 empowered District Collectors to regularize contingent/daily wage employees



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with 10 years of continuous service. G.O.(Ms)No.161, Rural Development Department, dated 26.06.2000 regularized 171 Night Watchmen, but the writ petitioner's name was not included. The writ petitioner submitted a representation on 25.03.2015 seeking regularization. Since the same was not considered, the writ petitioner filed a Writ Petition in W.P.(MD)No.11146 of 2015 and this Court, by order dated 11.02.2016, directed the third appellant to consider his representation in the light of the fourth appellant's recommendation. After his retirement on 30.06.2016, the writ petitioner filed W.P.(MD)No.360 of 2018 and this Court directed the second appellant to decide on his case. The first appellant rejected his claim via order dated 05.03.2018, citing overage (35 years at the time of appointment) and lack of inclusion in G.O.(Ms)No.161, Rural Development Department, dated 26.06.2000/ Hence, the writ petitioner filed the Writ Petition. The Writ Court allowed the Writ Petition on 05.02.2024, stating that the writ petitioner had served for 25 years until retirement; his long service, despite being temporary, deserved recognition in a welfare state and his appointment was made through a regular recruitment process against a sanctioned post.



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5.2. The original appointment was illegal under the Tamil Nadu Panchayat Establishment Rules, 1988, as the age limit for the Night Watchman post was 30 years, while the writ petitioner was 35 years at the time of appointment. In *the Secretary, State of Karnataka and others Vs. Umadevi and others [(2006) 4 SCC 1]*, the Hon'ble Supreme Court clearly held that appointments must comply with statutory rules, and backdoor entries cannot be regularized. Later judgments contrary to Umadevi cannot be considered precedents as para 54 of Umadevi nullifies such contrary decisions. Audit objections led to the denial of increments, which the writ petitioner never contested. The writ petitioner's claim in the year 2015, 15 years after G.O(Ms)No.161, Rural Development Department, dated 26.06.2000 is barred by laches. A Division Bench judgment in *W.A.(MD) Nos. 836 & 837 of 2014* emphasized that Panchayat resolutions alone do not confer legal rights and appointments must conform to rules. Sympathy and length of service cannot override legal ineligibility, as held in *Secretary to Government, School Education Department, Chennai Vs. R.Govindaswamy and others [2014 (4) SCC 769]*. Even if regularization were to be granted under G.O(Ms)No.161,



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WEB COPY Rural Development Department, dated 26.06.2000 it could only be effective from 26.06.2000 and not from the initial date of appointment. The order of the Writ Court is legally unsustainable and the same is liable to be set aside.

6. In support of his contention, the learned Additional Advocate General relied on the judgment of the Hon'ble Supreme Court in ***Secretary to Government, School Education Department, Chennai Vs. R.Govindaswamy and others [2014 (4) SCC 769]*** and the order of this Court in W.P.No.32769 of 2014, dated 26.07.2022 [A.Subramanian Vs. The Secretary to Government and others].

7. The submissions of the learned counsel appearing for the respondent/writ petitioner are as follows:

7.1. The reasons cited in the impugned proceedings dated 05.03.2018 were never communicated to the writ petitioner earlier and appear to be newly invented to deny his claim. Even if the writ petitioner's name was not included in G.O.(Ms)No.161, Rural Development Department, dated 26.06.2000 that alone



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7.2. The writ petitioner was appointed on 01.07.1991 and served for 27 years. The appointment was through employment exchange, and hence, it cannot be termed illegal or irregular. The impugned proceedings is arbitrary and vitiated due to the inordinate delay. As similarly placed persons were regularized under G.O.(Ms)No.161, Rural Development Department, dated 26.06.2000, the writ petitioner is also entitled to regularization. Denying the same is unreasonable and violative of Article 14 of the Constitution of India. Having extracted service from the writ petitioner for 27 years, the appellants cannot deny regularization at the end of his career.

8.The learned counsel appearing for the respondent/writ petitioner relied on the following judgments:

1. Nihal Singh v. State of Punjab [(2013) 14 SCC 654].

2. Sheo Narain Nagar & Ors. v. State of Uttar Pradesh & Ors. [(2018) 13 SCC 432].

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3. *State of Gujarat & Ors. v. Talsibhai Dhanjibhai Patel* [2022 LiveLaw (SC) 187].

4. *Raman Kumar & Ors. v. Union of India & Ors.* [2023 LiveLaw (SC) 520].

5. *Vinod Kumar & Ors. v. Union of India* [2024 LiveLaw (SC) 330].

6. *Shirpal & Anr. v. Nagar Nigam, Ghaziabad* [2025 SCC Online SC 221].

In the light of these judgments, which are squarely applicable, the writ petitioner is entitled to regularization with effect from 01.07.1991. Therefore, the Writ Appeal is liable to be dismissed.

9.Heard Mr.Veera Kathiravan, learned Additional Advocate General appearing for the appellants and Mr.H.Mohammed Imran, learned counsel appearing for the respondent and perused the materials placed before this Court.



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10. The factual matrix of the case is not in serious dispute. The writ petitioner was appointed as a Watchman on 01.07.1991 through the employment exchange, and was later posted as a Night Watchman in the Krishnarayapuram Panchayat Union Office. He continued in service for 27 years until his superannuation on 30.06.2016. His appointment, though termed temporary, was on a time scale of pay and a service register was also maintained. Despite multiple recommendations and communications by the authorities, including proposals for regularization, his service was not regularized.

11. The claim for regularization was ultimately rejected by the first appellant vide proceedings dated 05.03.2018 on the grounds that the writ petitioner was overaged at the time of appointment, and his name did not feature in G.O.(Ms) No.161, Rural Development and Panchayat Raj Department, dated 26.06.2000.

12. The learned Single Judge, upon elaborate consideration of the facts and applying the principles laid down in a catena of decisions, including *Nihal Singh v. State of Punjab [(2013) 14 SCC 654]* and *State of Gujarat v.*



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WEB COPY ***Talsibhai Dhanjibhai Patel [2022 LiveLaw (SC) 187]***, allowed the writ petition, observing that the appointment was not a backdoor entry but made through the employment exchange; the petitioner had rendered 27 years of continuous service without interruption; the denial of regularization at the end of such long and dedicated service was arbitrary and contrary to the principles of fairness and equity.

13. We find no merit in the contention of the appellants that the petitioner's appointment was illegal. Mere irregularity in the process or technical non-compliance with age norms, particularly when known and tolerated by the employer throughout the tenure, cannot be a ground to deny regularization after decades of service. The appointment through the employment exchange and the maintenance of a service register further support the legitimacy of the appointment.

14. The reliance placed by the appellants on ***Secretary, State of Karnataka v. Umadevi [(2006) 4 SCC 1]*** is misplaced in the present context. The Supreme Court itself, in ***Umadevi's case***, carved out an exception for employees



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who had been working for a long period and were not irregular appointees in the strict sense. Further, subsequent decisions including *Vinod Kumar v. Union of India* [2024 LiveLaw (SC) 330] and *Shirpal v. Nagar Nigam, Ghaziabad* [2025 SCC Online SC 221] have recognized the principle of legitimate expectation and directed regularization in similar cases.

15.The principle laid down in *Sheo Narain Nagar v. State of U.P.* [(2018) 13 SCC 432] that length of service cannot be brushed aside solely due to the absence of formal regularization applies squarely to the present case.

16.The respondent/writ petitioner, having served continuously for 27 years under the control and supervision of the State, cannot now be denied the benefit of regularization and terminal benefits on hyper-technical grounds. A welfare state cannot extract continuous service from an employee and thereafter deny them basic service rights under the garb of procedural infirmities.



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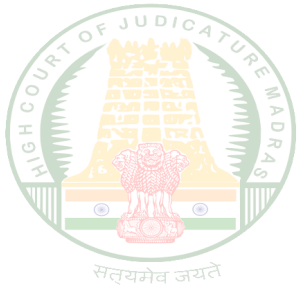
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17. Accordingly, we find no error in the judgment of the learned Single Judge warranting interference. The order impugned in this Writ Appeal is based on sound reasoning, supported by binding precedent and the overarching principles of equity and fairness.

18. In the result, the Writ Appeal stands dismissed. The order dated 05.02.2024 passed in W.P.(MD) No.4397 of 2021 is confirmed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

[J.N.B.,J.] & [S.S.Y.,J.]
24.06.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
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Represented by the State of Tamil Nadu,
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J.NISHA BANU, J.
and
S.SRIMATHY, J.

ps

**Pre-Delivery Judgment Made in
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