



W.A.(MD)No.1528 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.06.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A.(MD)No.1528 of 2024
and
C.M.P.(MD)No.11900 of 2024**

- 1.The Secretary to the Government,
Revenue and Disaster Management Department,
Fort St.George, Chennai - 600 006.
- 2.The Chief Secretary,
Government of Tamilnadu,
Chepauk, Chennai.
- 3.The District Collector,
Ramanathapuram District.
- 4.The Deputy Collector,
Mandapam Camp,
Ramanathapuram.

... Appellants

Vs.

K.Subburam

... Respondent

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD).No.13585 of 2017 dated 28.03.2023 on the file of this Court.



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For Appellants : Mr.A.Kannan,
Addl. Government Pleader.

For Respondent : Mr.Prashu Rajadurai,
For Mr.N.Mariappan

JUDGMENT
(By G.R.SWAMINATHAN, J.)

The State is on appeal questioning the order dated 28.03.2023 made in W.P.(MD)No.13585 of 2017 filed by the respondent herein.

2.The respondent herein joined Indian Army. Due to medical in-validation, he was discharged from Army service in the year 1984. He enrolled himself in the Ex-Serviceman Employees Association. The association sponsored his name for the post of Gurkha Watchman for Mandapam Camp at Ramanathapuram. During the relevant time, since there was an influx of refugees from Srilanka and they were housed in Mandapam Camp, the government had issued G.O.(Ms)No.2082 Revenue Department dated 21.12.1983 creating four posts of Gurkha Watchmen upto 29.02.1984 on consolidated pay of Rs.300/- each per month. The respondent herein was appointed in one such post. He



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continued to serve in the same capacity for years thereafter. The Special Deputy Collector, who was in-charge of Mandapam Camp was periodically submitting proposal for bringing the respondent herein under regular time scale of pay. Since no action was taken, the respondent herein filed W.P.(MD)No.14369 of 2015. The said writ petition was disposed of on 21.08.2015 in the following terms:

“The appointment order, dated 07.01.1985 and the proposal issued by the Deputy Collector, Mandapam Camp, dated 23.12.1993 clearly shows that after his appointment as Goorkha Watchman in the year 1985, his case has been recommended for regularization. However, the first respondent instead of approving the proposal, directed the petitioner to approach the second respondent, the District Collector, who is the competent authority to regularize the service, once again. Subsequently, on approaching the second respondent, a similar proposal has been made to the Additional Secretary, Revenue and Administration during the year 2013 requesting to regularize the service of the petitioner.

4.In that view of the matter, the first respondent, the Special Commissioner, Rehabilitation Department is hereby directed to consider the case of the petitioner for regularization of service on the basis of the proposal already sent by the third



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respondent to the second respondent within a period of two months from the date of receipt of a copy of this order.”

Pursuant to the said direction, the government passed G.O.(Ms)No.200 Revenue and Disorder Management Department dated 12.06.2017 regularizing the service as Gurkha Watchman with effect from 12.06.2017. Challenging the same, the respondent herein filed W.P.(MD)No.13585 of 2017. The said writ petition was allowed vide order dated 28.03.2023 in the following terms:

“6.The plea of the respondents that, when the petitioner filed W.P. (MD)No.14369 of 2015, the said writ petition came to be allowed without giving opportunity to the respondents and hence in contempt proceedings the service of the petitioner was regularized. When such plea was taken by the respondents, this Court in order to grant an opportunity to the respondents is proceeding to consider the contentions that were raised by the respondents in the counter.

7.The first contention of the respondents is that the appointment of the petitioner is for temporary basis in an unsanctioned post. The respondents have issued appointment order, dated 07.01.1985, which was entered in the service book and the contents are extracted hereunder:

“Sponsored by Assistant Director of



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Ex-Servicemen's Welfare Ramanathapuram at Srivilliputhur in letter aoreder card No. 65/84 dated 25.10.1984 and appointed as GURKHA WATCHMEN in proceedings No. F/2124/84 dated 07.01.1985 of the Special Duty Collector (Rehabilitation) Mandapam Camp joined on F.N of 18.01.1985 as Gurkha Watchmen in the office of the Special Deputy Collector (Rehabilitation) Mandapam Camp."

In the aforesaid appointment order, no where it is stated that the petitioner was appointed in unsanctioned post in a temporary basis. The respondents have taken a plea that the petitioner was appointed in unsanctioned post. Since the appointment order is not stating that it is an unsanctioned post and further not stating that it is a temporary post, the claim of the respondents ought to be rejected.

8.The contention of the respondents is that there were only four sanctioned posts as per G.O.Ms.No.2082, Revenue Department, dated 21.12.1983, hence the petitioner was appointed in unsanctioned post. The further contention of the respondent that in the said G.O.Ms.No.2082 the post was sanctioned until 29.02.1984, but the petitioner was appointed on 18.01.1985. It is seen from records that the respondents have appointed six persons in the four sanctioned posts. Therefore, this Court is of the considered opinion that it is the mistake of the respondents to appoint the petitioner in an unsanctioned post. When the Government has sanctioned only four posts, the respondents ought to have sought permission to appoint one more person or ought to have sought to sanction



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one more post and thereafter, appoint the petitioner. After appointing the petitioner then the respondents cannot take a stand that the petitioner was appointed in an unsanctioned post. More so when the G.O. has sanctioned the post until 29.02.1984, but the petitioner was appointed beyond the said period i.e. on 18.01.1985, then the petitioner is protected under the principles of legitimate expectation.

9.The next contention of the respondents is that the petitioner was not sponsored by the District Employment Exchange. It is seen that the petitioner is sponsored by the Assistant Director of Ex-Servicemen's Welfare Ramanathapuram. When the respondents have called the list for from the Ex-serviceman Welfare Office, then the appointment is legally sustainable and the plea that local employment exchange has not sponsored cannot be entertained.

10.Therefore, this Court is of the considered opinion that fixing the date of 2017 is absolutely improper. In fact, the 3rd respondent has submitted a proposal to the 2nd respondent proposing for regularization of the petitioner as early as 23.12.1993 itself. When the official respondents failed to take up the proposal, it is the mistake of the official respondents. Either the respondents ought to have regularized the service or ought to have intimated the petitioner that his service will not be regularized. If that has been communicated to the



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petitioner, then petitioner would have left the job and taken up some other job which is remunerative to the petitioner. Such an opportunity was not granted to the petitioner.

11. Therefore, this Court is of the considered opinion that the petitioner is entitled to be regularized from 23.12.1993 or atleast after a lapse of ten years that from 07.01.1995. Therefore, this Court is directing the respondents to regularize the petitioner's service from 07.01.1995 and consequently, pay the service benefits to the petitioner. As far as monetary benefits the petitioner is entitled to the said monetary benefits, but without interest. The impugned G.O., is modified to that effect. The petitioner had retired on 30.06.2019. Therefore, the entire monetary benefits shall be given along with pensionary benefits. The entire exercise shall be completed within a period of sixteen weeks from the date of receipt of a copy of this order.

12. For the reasons stated above, the writ petition is allowed. No costs."

Questioning the same, this writ appeal has been filed.

3. The learned Additional Government Pleader for the State reiterated all the contentions set out in the grounds of appeal and called upon this Court to set aside the order of the learned Single Judge and dismiss the writ petition.



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4.Per contra, learned counsel for the respondent submitted that the learned Single Judge had passed a highly equitable order and that it does not call for interference.

5.We carefully considered the rival contentions and went through the materials on record. That the writ petitioner was discharged from Indian Army due to medical in-validation is not in dispute. It is also seen that the Assistant Director of Ex-Serviceman's Welfare, Ramanathapuram at Sriviliputtur vide letter dated 25.10.1984 sponsored his name for appointment as Gurkha Watchman. Thus, the entry of the writ petitioner cannot be said to be through back door. Hence, the question of relaxation does not arise at all. He also possessed the requisite educational qualification. It is true that the writ petitioner was appointed only as a contingency staff on consolidated pay. However, G.O.(Ms)No.62 Employment Services Department dated 20.03.1987, stated that persons who have completed five years of service as contingent staff must be brought into regular establishment with time scale of pay. That is why, proposal was submitted by the Special Deputy Collector, Mandapam Camp as early as in the year 1993 itself for



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regularizing his service. The proposal was to regularize the writ petitioner's service with effect from 18.01.1990. In fact, the said proposal makes it clear that since the writ petitioner was recommended by the Assistant Director of Ex-Serviceman's Welfare Association, the question of consulting the employment exchange would not arise at all. It was the mistake on the part of the authorities for not having regularized the service of the writ petitioner then itself. Subsequently also, proposal was sent in the year 1997 and again in 2003 also. It is for these reasons, the learned Single Judge chose to give the direction impugned in this writ appeal.

6.We can at best fault the writ petitioner only for one reason. He had waited till 2015 to seek relief. Therefore, directing the authorities to pay backwages and regular salary right from the year 1993 may not arise. However, taking note of the entire materials on record, we modify the order passed by the learned Single Judge in the following terms:

(i) The writ petitioner's service shall stand regularized with effect from 18.01.1990.



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(ii) The writ petitioner had retired from service 30.06.2019. Thus, the pensionable service would come to 29 years.

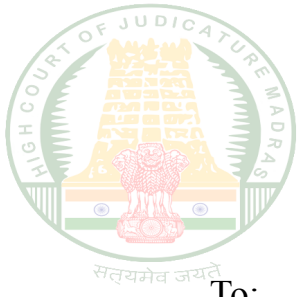
(iii) Since the writ petitioner filed writ petition only in the year 2015, his regular scale of pay will be paid from 01.10.2015 onwards. To clarify matters and remove any ambiguity, we make it clear that the writ petitioner will be placed in the old pension scheme.

(iv) All the backwages and other pensionary benefit shall be settled to the writ petitioner within a period of twelve weeks from the date of receipt of a copy of this judgment.

7.This writ appeal is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.) & (K.R.S. J.)
20.06.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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