



W.A(MD)No.1589 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 31.07.2025

CORAM

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

**W.A(MD)No.1589 of 2024
and
C.M.P(MD)No.12425 of 2024**

- 1.The Secretary to Government,
Department of Panchayat Raj
and Rural Welfare,
Chennai – 600 009.
- 2.The Commissioner / Director,
Department of Rural Development
and Panchayat Raj,
Saidapet, Chennai – 600 015.
- 3.The District Collector,
Office of the Collectorate,
Theni.
- 4.The Commissioner,
Kambam Union,
Kambam, Theni District.
- 5.The Assistant Director,
Local Audit,
Theni District.

... Appellants /
Respondents

Vs.



A.Santhirarajan



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... Respondent /
Writ Petitioner

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Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 15.03.2024 made in W.P(MD)No.5593 of 2023 and allow the Writ Appeal.

For Appellants : Mr.R.Baskaran
Additional Advocate General
Assisted by
Mr.N.Ramesh Arumugam
Government Advocate

For Respondent : Mr.S.Ramsundarvijayraj

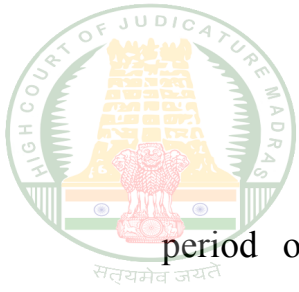
JUDGMENT

(By G.R.SWAMINATHAN, J.)

Heard both sides.

2.This Writ Appeal is directed against the order dated 15.03.2024 passed by the learned single Judge allowing W.P(MD)No.5593 of 2023 filed by the respondent herein.

3.The respondent herein was appointed as Night Watchman for the tourist bungalow in Suruli falls by the Commissioner, Cumbum Union. The respondent was appointed as against the post which had been sanctioned for a



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period of one year vide G.O(Ms)No.878 Rural Development and Local

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Administration dated 15.05.1981. Even though the respondent herein was appointed only for a period of one year, his tenure was extended up to 30.09.1992. His probation was also declared with effect from 31.03.1991. From 01.10.1992, the respondent's tenure was extended up to 23.06.1994 by the Commissioner of Cumbum Union without getting proper prior approval from the Government. Subsequently, the District Collector, Madurai transferred the respondent and appointed him as Night Watchman for Cumbum Union Council Office from 11.04.1994. The respondent continued to serve in the very same place and capacity till 30.11.2020 when he reached the age of superannuation. In the meanwhile, his services were regularised and he was also brought into time scale of pay. He was also conferred with selection grade.

4.Only when the respondent reached the age of superannuation, it was realized that all along he has not been functioning in any sanctioned post. He has been paid his monthly salaries from the miscellaneous expenditure fund. The respondent herein thereupon submitted his representation on 22.11.2021. Since it was not considered, he filed W.P(MD)No.12592 of 2022 and this Court vide order dated 21.06.2022 directed the authorities concerned to dispose of the said representation. Pursuant to the said direction, rejection order dated



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14.12.2022 came to be passed. It was put to challenge in W.P(MD)No.5593 of 2023. The learned single Judge vide order dated 15.03.2024 quashed the said order dated 14.12.2022 and directed the respondents to regularise the services of the respondent herein with effect from the date of his initial appointment. Assailing the same, this Writ Appeal has been filed by the State.

5.The learned counsel for the writ petitioner / respondent herein drew our attention to the order dated 19.08.2024 made in W.P(MD)No.28257 of 2023. The factual matrix obtaining in both the cases are broadly similar. The learned single Judge had directed the authorities to regularise the service of the writ petitioner therein from the date of his initial appointment as done in the present case also.

6.We are not able to fully agree with the approach adopted by the learned single Judges. Services of a person can be regularised from the date of his initial appointment only if the appointment was made against a sanctioned vacancy. In the case on hand, there was no sanctioned vacancy. However, the writ petitioner can legitimately rely upon G.O(Ms)No.161 Rural Development Department dated 26.06.2000. The Government took note of the plight of several contingent staff created posts to accommodate them and issued the

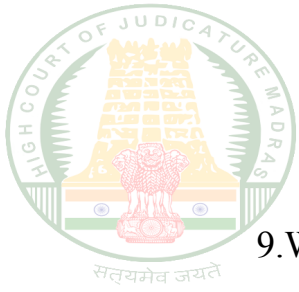


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aforesaid GO to that effect. One of the conditions stipulated in the said GO was that the individual concerned should have completed 10 years of service as contingent staff as on the date of issuance of the GO. In the case on hand, the writ petitioner was appointed on 01.04.1990. He had completed 10 years of service by the time G.O(Ms)No.161 Rural Development Department dated 26.06.2000 was issued.

7. When similarly placed persons have been regularised, it would be inequitable and a clear breach of the mandate set out under Article 14 of the Constitution of India to deny relief to the writ petitioner alone. We therefore modify the order of the learned single Judge and direct the respondents to regularise the services of the writ petitioner with effect from 22.06.2000.

8. The appellants are directed to settle the retiral benefits of the writ petitioner within a period of twelve weeks from the date of receipt of a copy of this order. We make it clear that the writ petitioner shall be entitled to pension based on his last drawn pay. Even though the writ petitioner was originally appointed as contingent staff, for all practical purposes, he was considered only as a regular employee. Otherwise, his probation would not have been declared and his services would not have been regularised by the authorities.



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9. We are, of course, conscious that the selection grade pay was conferred on the writ petitioner considering the length of service put in by him. We are conscious that such proceedings were issued by the authorities. At the same time, we cannot lose sight of the fact that the appellant has served the department for a period of 3 decades. The writ petitioner did not make any backdoor entry. He was sponsored by the employment exchange and an interview was duly conducted. Thus, all the usual procedures were duly followed. More than anything else, the initial appointment itself was made against a sanctioned post, though it was only for a period of one year.

10. This Writ Appeal is partly allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [K.R.S., J.]
31.07.2025

NCC : Yes / No
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and

K.RAJASEKAR, J.

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