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W.A.No.2429 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-06-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.A.No.2429 of 2023 and C.M.P.No.20326 of 2023

1. The State Of Tamil Nadu
Rep. by the Secretary,
Public Works Department, Fort St. George,
Chennai-9.
2. The Engineer In Chief & Chief Engineer General,
(WRO), P.W.D. Chepauk, Chennai-600 005.

..Appellant(s)

Vs

V.Lakshmanasamy

..Respondent(s)

Prayer: Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 10.02.2023 made in W.P.No.33493 of 2016 and allow this Writ Appeal.

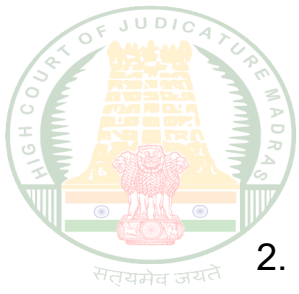
For Appellant(s): Dr.R.Gouri
Government Advocate

For Respondent(s): Mr.Thangavel
for Mr.S.K.Kharventhan

JUDGMENT

(Judgment of the Court was delivered by S.M.SUBRAMANIAM, J.)

Under assail is the writ order dated 10.02.2023 passed in W.P.No.33493 of 2016.



2. The appellants are the respondents in the writ petition, challenging the order of the Writ Court allowing the writ petition filed seeking regularization of services of the writ petitioner on completion of ten years of service and for the consequential service and monetary benefits.

3. The issue involved in the present appeal is no more *res integra*, as a Division Bench of this Court has dealt with a similar issue in W.A.No.2830 of 2019 and etc. batch vide the common order dated 16.08.2023. Relevant portion of the said common order is extracted hereunder:

“W.A.No.2830 of 2019 etc., batch:

12.The private individuals in all these Writ Appeals being aggrieved against the order of the learned Single Judge had approached this Court wherein the learned Single Judge had rejected their claim for regularisation. It is to be noted that the learned Single Judge had heavily placed reliance upon the judgment of the Hon'ble Apex Court along with other judgments to conclude that the private individuals request cannot be considered as they are entered into service has not through the established procedure and hence their entry is back door entry.



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13. It is also brought to our notice that the learned Single Judge had also dealt with similar issue in a batch of Writ Petitions before the Madurai Bench of this Court in W.P.(MD).No.10066 of 2014, etc., batch and by or der dated 04.11.2020, had taken a similar view. The aforesaid judgment had been challenged by the aggrieved persons therein in W.A.Nos.337 & 338 of 2021. A Division Bench of this Court which had dealt with aforesaid Writ Appeal had set aside the order passed by the learned Single Judge and directed the Government to extend the benefit of regularisation of service to the Appellants. For better appreciation, the relevant paragraphs of the aforesaid, Division Bench judgment is extracted hereunder:-

9. The order passed in the writ petitions has referred to several decisions of the Honourable Supreme Court and in particular, the decision of the Constitution Bench of the Honourable Supreme Court in the case of Umadevi vs. State of Karnataka, [(2006) 4 SCC (1)]. On a reading of the order passed by the learned Writ Court, we find that the correctness of the stand taken by the petitioners qua that taken by the respondent – Department appears to have not been dealt with. The crucial question would be as to whether the appellants satisfied the requirements to be treated on par with the other similarly placed persons. The appellants were nonsuited or in other words, denied the relief of regularization on the ground that they have not completed ten years of continuous service on the crucial date.

10. From the perusal of the records placed fore this Court, we find that the respondent – Department themselves have certified and recommended the case of the appellants to have be completed ten years of service on contract daily wage basis and contract



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basis and these recommendations have been made by none other than the Superintending Engineer of the respondent – Department as early as in the year 2017, precisely, on 08.12.2017 and 03.07.2017 respectively. This recommendation has not been disputed by the Department in their counter affidavit filed in the writ petitions. In fact, in the counter affidavit filed in W.P(MD) No.14503 of 2017, filed by the appellant in W.A.(MD) No.338 of 2021, there is a reference to various Judgments of the Honourable Supreme Court and certain paragraphs from the Judgments have extracted. The only averment, which is contained in the counter affidavit, is that the appellant in W.A.(MD) No.338 of 2021, namely, N.Parthasarathy was paid wages through a private contractor. Admittedly, to tide over the exigencies and in order to fulfil certain very important water bodies, the Department had necessarily to engage NMRs / contract labourers. Such NMRs / contract labours continued to work for several years as in the case of the appellant for more than 20 years and the Government realizing the fact that these persons have been working for several years and their services were virtually indispensable thought fit to grant the relief of regularization. The relief of regularization was to be granted based on the fulfillment of certain parameters by fixing a cut off date within which the concerned NMRs/ contract labours should have completed ten years of continuous service. The Superintending Engineer, who is the Head of the Department in the particular region, has recommended and certified that both the appellants have completed ten years of continuous service on the crucial date. Without disputing the said document by merely stating that one of the appellants was paid through a private contractor is to unjustly deny the relief of regularization to the appellants alone, which was extended to several 1000s of people in the State.



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11. Identical issue was considered by the Honourable Division of this Court in the case of State of Tamil Nadu, Public Works Department and two others vs. P.Subramanian and three others [W.A.No.493 of 2016, dated 25.04.2016] and the appeal filed by the Government was dismissed. Thus, in the light of the fact that the certification done by the Superintending Engineer certifying that the appellants have completed the requisite number of ten years of continuous service having not been disputed, the appellants were entitled to be granted the relief extended to the other similarly placed persons. In this regard, it will be beneficial to refer to the decision of the Honourable Supreme Court in the case of Union of India, rep.by the Chief Postmaster General and another vs. G.Subramani and another [(2013) 7 MLJ 724], wherein, it was held that equal treatment should be accorded to similarly placed persons without any discrimination.

12. Further, the learned counsel has drawn the attention of this Court to the order, dated 22.09.2017 in W.P.No.29346 of 2014 etc. batch [G.Sivaganesan and five others vs. The State of Tamil Nadu, Public Works Department and two others], wherein the learned Single Bench had quashed paragraph No.6 of G.O.Ms.No.74, dated 27.06.2013 and several Judgments of the Honourable Division Bench on the said is sue have been referred to and the relief of regularization was granted to the petitioners.

13. Thus, for all the above reasons, we are of the considered view that the appellants are entitled to the relief as prayed for in the writ appeals. 14. In the result, the writ appeals are allowed and the order dated 04.11.2020, passed in W.P.(MD) Nos.10066 of



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2014 and 14503 of 2017, is set aside. Consequently, W.P.(MD) Nos.10066 of 2014 and 14503 of 2017 are allowed and the impugned orders in these writ petitions are quashed and the respondents are directed to extend the benefit of regularization of service of the appellants in terms of the relevant Government Orders and bring them under the time scale of pay, within a period of three months from the date of receipt of a copy of this Judgment. No costs.

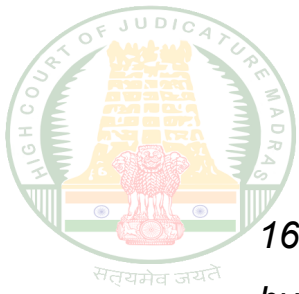
14. It has also been brought to our notice that the same was taken on appeal by the Government by filing a Special Leave Petition and the same had been dismissed by the Hon'ble Apex Court in its order dated 06.05.2021. For better appreciation, the said order is extracted hereunder:-

1.In the facts and circumstances of the present case and without this Court expressing any opinion on the wider propositions of law sought to be raised, we see no case for interference under Article 136 of the Constitution.

2.The Special Leave Petitions are accordingly missed.

3.Pending applications, if any, stand disposed of.

15. In view of the above, that the order of the learned Single Judge taking up an identical view had been dealt with by the Division Bench of this Court and had set aside the said order which had been also affirmed by the dismissal of the Special Leave Petition. Therefore, we are constrained to hold that the view taken by the learned Single Judge impugned in these Writ Appeals will also have to be necessarily set aside.



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16. That apart, the learned Single Judge had heavily relied upon by the judgment of the Hon'ble Apex Court in the case of Uma Devi's case which had been reported in (2006) 4 SCC 1. The Government even after the judgment, had been appointing the casual labourers/NMRs. The Government had taken a conscious policy decision to regularise the services of such casual labourers/NMRs not only considering the length of service. Such a policy decision had not been questioned by any one. When such a policy decision had been taken and not been questioned by any one, the Court cannot supplement its views on such a policy decision taken by the Government, the Court will have to only look that if such policy decision is arbitrary and discriminatory.

17. It is also not the case of the Government that they had not regularised any such casual labourers/NMRs subsequent to the decision made in Uma Devi's case. It is true that similarly placed persons cannot seek equality by relying upon a decision which is illegal. In the present case, the Government Orders regularising similarly placed persons was on a conscious policy decision taken by the Government, which the Government had decided to be not disturbed in G.O.Ms.No.74 dated 27.06.2013. The said Government Orders have also not been put to challenge before this Court. A policy decision taken by the Government cannot be interfered with by the Court unless or until, it is challenged on the ground of lack of jurisdiction, arbitrariness or colourable exercise of power. It is not the case that such Government Orders, had been issued on any of the



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afore-stated grounds and infact the Government itself stands by such Government fore, we are of the considered view that the private Orders. There individuals in these Writ Appeals cannot be non-suited by relying upon the Hon'ble Apex Court judgment in Uma Devi's case (supra) and they have to be suited on par with the similarly placed persons, who have been Writ Appeal No.606 of 2019 regularised by the Government in their policy decision taken in G.O. Ms.No.334 Public Works (C2)Dept., dated 19.10.2007, G.O.Ms.No.134 Public Works (C2) Dept., dated 07.05.2010 and G.O.Ms.No.202 Public Works (C2) Dept., dated 01.08.2012.

18.In the light of the above reasoning and findings, we are of the considered view that the order passed by the learned Single Judge which had been impugned in all these Writ Appeals would have to be interfered with and accordingly they are set aside and as a sequel, the Government is directed to consider the claim of the appellants herein and shall be regularised their services in accordance with G.O.Ms.No.74 dated 27.06.2013 by taking the date of notification, dated 27.06.2013, as to be the cut off date for fixing the period of completion of 10 years of service.

19. In the result:

a) W.A.No.606 of 2019 is closed.

b) All other Writ Appeals are allowed and the impugned order passed by the learned Single Judge is set aside.



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c) Consequently connected Miscellaneous Petitions are closed. However there shall be no order as to costs.”

4. In light of the above, the present writ appeal stands allowed on the same terms as stipulated in the order dated 16.08.2023. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S.,J.) (N.S.,J.)
29-06-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

(drm)

To:

1. The Secretary,
The State Of Tamil Nadu,
Public Works Department, Fort St. George, Chennai-9.
2. The Engineer In Chief & Chief Engineer General (WRO),
P.W.D. Chepauk, Chennai-600 005.



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S.M.SUBRAMANIAM J.
AND
N.SENTHILKUMAR J.

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