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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-10-2026

CORAM

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

WP No. 34124 of 2023

CNR:{HCMA012156882023}

1. Ammasai
2. Palanichamy
3. Ramasamy
4. Muniyappan
5. Nachimuthu
6. Meenatchi
7. Gurusamy
8. Rajendran
9. Gomathi
10. Kanaga
11. Rajakumari

..Petitioners

Vs

1. The State of Tamil Nadu
   Rep. by its Secretary To Government,
   Highways Department, Chennai 9

2. The Director General
   Highways Department,
   No. 76 Sardar Vallabaipatel Road,
   Guindy Chennai 25

3. The Divisional Engineer
   Highways Department, Erode 638 002

4. The Divisional Engineer
   Highways Department, Gopichettipalayam,
   Erode District 638 476

5. The Assistant Divisional Engineer
   Highways Department, Bhavani, Erode
   District 638 301

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India,

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to issue a Writ of Mandamus, directing the respondents to consider the petitioners representation dated on 10.03.2023 in the light of the letter in Memo No. 2/ 07/ A1 dated 28.01.2008 issued by the 5th respondent and direct the respondents to appoint the petitioners herein in the existing or future vacancies as Gang Mazdoors in regular time scale of pay in consonance with the orders passed by this Court in WP. Nos. 911 to 937 / 2009 dated 18.06.2009 which was upheld by the Division Bench of this Court in Review Application Nos. 30/ 2012 to 37/2012 and 116/2012 to 134/2012 order dated 21.06.2012, 06.08.2012 and confirmed by the Supreme Court in SLP in CC Nos. 22523/ 2012 to 22530/ 2012 dated 29.07.2013.

For Petitioners: Mr.S.Packiaraj

For Respondents: Mr.V.Tamizhanban,
Government Advocate

ORDER

This Writ Petition has been filed by the petitioners for the issuance of a Writ of Mandamus, directing the respondents to consider the representation of the petitioners dated 10.03.2023 in the light of the letter in Memo No. 2/ 07/ A1 dated 28.01.2008 issued by the 5th respondent and direct the respondents to appoint the petitioners herein in the existing or future vacancies as Gang Mazdoors in regular time scale of pay in consonance with the orders passed by this Court in WP. Nos. 911 to 937 / 2009 dated 18.06.2009 which was upheld by the Division Bench of this Court in Review Application Nos. 30/ 2012 to 37/2012 and 116/2012 to 134/2012 order dated 21.06.2012, 06.08.2012 and

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confirmed by the Supreme Court in SLP in CC Nos. 22523/ 2012 to 22530/ 2012 dated 29.07.2013.

2. The learned counsel for the petitioner submitted that the petitioner has been working as a Gang Mazdoor on a daily-wage basis with the 3rd respondent from 1987 onwards. Though there were breaks in service, such breaks in service were artificial in nature. All of a sudden, the respondents stopped the services of the petitioner without any valid reason.

3. The learned counsel for the petitioner further contended that the post of Gang Mazdoor post is equivalent to the post of Office Assistant. Since G.O. Ms. No. 702 dated 18.06.1981 has been passed in respect of Office Assistants, the petitioners, in line with the same, are also eligible to have their services regularised.

4. Per contra, the said contention was vehemently opposed by the learned Government Advocate, who contended that G.O. (Ms) No. 74, Personnel and Administrative Reforms Department, dated 27.06.2013, is applicable only to full-time daily-wage employees/NMRs who were initially appointed on a full-time basis. In the case in hand, the petitioners were neither appointed on a full-time basis, nor were they appointed in consultation with the Employment Exchange to discharge the functions of a post under the Tamil Nadu Basic

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Service.

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5. The learned Government Advocate further contended that in order to have the benefits under the G.O. (Ms) No. 74, Personnel and Administrative Reforms Department, dated 27.06.2013, the petitioner ought to have completed ten years of service. Whereas, in the case in hand, the petitioners have not satisfied the above condition and furthermore they are only part time employees. Therefore, the question of considering the representation of the petitioners does not arise.

6. I have given my anxious consideration to either side submissions.

7. Admittedly, the petitioners were appointed during 1987 and that now they have been been stopped from work. Even according to the petitioners, there were breaks in service in their duty. Though the petitioners seeks regularisation in consonance with an existing or a future vacancy, as rightly contented by the Government Advocate, when there is a specific condition that the employee should complete period of ten years and that such an employment should be on a full-time daily wage basis, the petitioners cannot seek any relaxation even under the order in G.O. (Ms) No. 74, Personnel and Administrative Reforms Department, dated 27.06.2013.

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8. In the case in hand, since the petitioners have not completed ten years of service, and were not appointed through the Employment Exchange. But were engaged only on a part-time basis. Therefore, they cannot maintain any claim based upon G.O. (Ms) No. 74, Personnel and Administrative Reforms Department, dated 27.06.2013. Furthermore, as rightly contended by the learned Government Advocate, the Honourable Supreme Court has held in various judgments that while exercising power under Article 226 of the Constitution of India, this Court cannot direct the regularisation of a person unless they are appointed to a sanctioned post and have been continuously working for a long time. In the case in hand, admittedly, the petitioners were not appointed in a sanctioned post.

9. In such view of the factual position, the mere entrustment of work to the petitioner for a particular time, will in no way confer any right upon the petitioners to seek regularisation. Accordingly, no grounds have been made out to direct the respondents to consider the representation of the petitioners.

10. Accordingly, this Writ petition stands dismissed. No costs.

30-10-2026

Index: Yes
Speaking order
Neutral Citation: Yes

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SHL

C.KUMARAPPAN J.

SHL

To:

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