

A. Perumal and Another Vs. State of Tamil Nadu and Others

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Court : Chennai Madurai

Decided On : Oct-28-2015

Judge : T. Raja

Appeal No. : W.P.(MD).Nos. 19245 & 19399 of 2015

Appellant : A. Perumal and Another

Respondent : State of Tamil Nadu and Others

Judgement :

(Prayer: Petition is filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus, directing the respondents to pass an order of regularization by considering the petitioner's representation, dated 09.05.2015.)

1. The Writ Petitions have been filed by Mr.A.Perumal and Ms..Petchiammal, respectively in W.P.(MD)Nos.19245 and 19399 of 2015, seeking a Writ of Mandamus, directing the respondents to pass an order of regularization of their services, by considering their representations, dated 09.05.2015, since both of them have rendered more than 25 years of service.

2. Mr.T.S.Mohammed Mohideen, learned Additional Government Pleader takes notice for the respondents.

3. Tmt.A.Petchiammal, the petitioner in W.P.(MD)No.19399 of 2015 was appointed as a Sweeper / Sanitary Worker on 11.07.1990, by order of appointment, dated

09.07.1990, through the Employment Exchange, on daily wages basis. At the time of appointment, she was given Rs.18/- on daily rated basis.

4. Mr.A.Perumal, the petitioner in W.P.(MD)No.19245 of 2015 was also appointed through Employment Office, as a part time scavenger, on 07.08.1991, by order of appointment dated 02.08.1991 on a consolidated pay of Rs.100/- per month.

5. Learned counsel appearing for the petitioners would submit that the Government issued order in G.O.Ms.528, Personnel and Administrative Reforms Department, dated 10.10.1988, directing the respondents Department to appoint a person working continuously as scavenger in the regular time scale of pay, in any one of the suitable post in Tamil Nadu Basic Services. Subsequently, the Government has also issued G.O.Ms.No.22, Personnel and Administrative Reforms Department, dated 28.06.2006, directing regularization of persons, who are continuously working. Since both the petitioners are working for a long time continuously, they were not brought to the regular appointment. Therefore, both the petitioners filed W.P.(MD)Nos.1364 and 1365 of 2007. This Court considering an another order passed by this Court in W.P.No.4101 of 2007, dated 24.07.2008, directed the 4th respondent therein to regularize the services of the petitioners on their completion of 10 years of service with time scale of pay, within six weeks from the date of receipt of a copy of that order.

6. Subsequently, the petitioners sent representations enclosing a copy of the order. Thereafter, the respondents also prepared a panel for regularization on 31.03.2001, including the name of the petitioners also, however they have not passed any order. Latter on, the respondents passed an order on 01.07.2008 appointing both of them as night watchman and as water woman respectively in W.P.(MD)Nos.19245 and 19399 of 2015, in the time scale of pay, in 2008, however, their services are not regularized, therefore they are constrained to come to this Court. Concluding his argument, learned counsel appearing for the petitioners would submit that, since the petitioners are all working continuously for the past 25 long years, a direction should be given to regularize their services, in which event, no one will be put to any prejudice.

7. It is this point of time, Mr.T.S.Mohammed Mohideen, learned Additional Government Pleader appearing for the respondents would submit that the case of the petitioners were already considered by appointing them to the regular time scale of pay in the year 2008 however, G.O.No.22, as pleaded by the petitioner has not been applied. Now, a proposal has already been sent on 10.12.2010 for their regularization by the Headmaster of Nanguneri School, Tirunelveli District and the same has also been forwarded by the District Educational Officer, Cheranmahadevi, on 14.08.2012, but the Director of School Education, Tirunelveli, has returned the proposal, raising some clarification, on 16.10.2012. This has been properly attended to by giving suitable clarification by the District Educational Officer, Cheranmahadevi, on 04.01.2014. Now, the matter is under consideration and at any time, suitable orders will be passed.

8. Since the District Educational Officer, Cheranmahadevi, has already clarified attending all the issues raised by the Director of School Education, Chennai, in his communication dated 16.10.2012 vide his proposal dated 04.01.2014, this Court keeping in mind that both the petitioners are working for the last 25 years, the Director of School Education, Chennai, the second respondent herein, is hereby directed to pass a suitable orders regularizing the services of the petitioners, in the light of the order passed by this court in W.P.(MD)Nos.1364 and 1365 of 2008, dated 28.04.2008. The petitioner is also directed to send a fresh representation along with a copy of this order as well as a copy of the order of this Court passed in W.P.(MD)Nos.1364 and 1365 of 2008, dated 28.04.2008, within a period of one week from the date of receipt of a copy of this order. On receipt of the same, within a period of one month thereafter, the 2nd respondent shall consider and pass appropriate orders on the same, in the light of the said proposal.