

(2015) 04 MAD CK 0170

In the Madras High Court

Case No : Writ Appeal (MD) Nos. 106 to 110 of 2015 and 1398 to 1402 of 2013

State of Tamil Nadu and Others

APPELLANT

Vs

R. Paulian

RESPONDENT

Date of Decision : 13-04-2015

Acts Referred:

Citation : (2015) LabIC 2908

Hon'ble Judges : S. Manikumar, J;G. Chockalingam, J

Bench : Division Bench

Advocate : K. Chellapandian, AAG assisted by V.R. Shanmuganathan, Spl. G.P., for the Appellant; G. Thalaimutharasu, Advocates for the Respondent

Final Decision : Allowed

Judgement

S. Manikumar, J.—The issue involved in these Writ Appeals is whether the respondents are entitled to regularisation, from the date on which, they have completed 10 years of service, for monetary and other benefits or they are entitled to monetary benefits, only from the date of issuance of the Government orders, regularising their services.

2. The Writ Court has directed the appellants to treat the period, starting from the date of completion of ten years, from the date of their initial appointment, for monetary and other benefits. Whereas, the Government have granted regularisation and monetary benefits, from the date of issuance of the orders, and reckoned the period, from the date of initial appointment, for other benefits.

3. Seeking reversal of the orders made in the Rev.Appl.Nos. 50 to 54 of 2013, in W.P.(MD)Nos. 5893 to 5897 of 2012, dated 29.01.2014, and the orders made in W.P. No. 5893 to 5897 of 2012, dated 22.08.2013, Mr.K.Chellapandian, learned Additional Advocate General, Government of Tamil Nadu, submitted that though part-time sweepers, are not eligible for regularisation, as G.O. Ms.No. 22, Personnel and Administrative Reforms Department, dated 28.02.2006, is not applicable to them and though the Government have also reiterated the same in

its letter No. 34799/R1/106-4, Education Department, dated 26.04.2007, to the effect that part-time employees cannot be regularised, and further affirmed its policy decision, in letter No. 34799/R1-06-12 Education, dated 16.07.2009, however, issued orders, regularising the services of the respondents, from the date of issuance of the G.O., by relaxing the Rules 5(1) and 3-A of the Tamil Nadu Basic Service Rules, wherever necessary, the Writ Court has issued orders, directing the appellants to regularise the services of the respondents and to grant benefits of regularisation, upon completion of 10 years of service, with time scale of pay. He submitted that the orders of the Writ Court to the extent granting monetary benefits from the date of completion of 10 years is liable to be set aside.

4. He further submitted that the Government have passed G.O. Ms.No. 74, Personnel and Administrative Reforms Department, dated 27.06.2013, and clarified that the G.O. Ms.No. 22, Personnel and Administrative Reforms Department, dated 28.02.2006, is applicable only to Full Time daily wage employees, who had completed 10 years of service, as on 01.01.2006, and not to part time employees.

5. In this context, Learned Additional Advocate General also relied on the judgment of the Supreme Court in Secretary to Government, School Education Department, Chennai Vs. Thiru R. Govindaswamy and Others, (2014) AIRSCW 1643 : (2014) 4 JT 451 : (2014) 2 LLJ 1 : (2014) 3 SCALE 34 : (2014) 4 SCC 769 , wherein, the Hon"ble Supreme Court held that part-time employees, are not entitled for regularisation and in cases, where, orders passed by the Writ Courts have been already implemented, the Hon"ble Supreme Court held that their services should not be affected.

6. Learned Additional Advocate General also invited the attention of this Court to the judgment in The State of Tamil Nadu Vs. M. Seeniammal, (2014) 4 LLN 216 : (2014) 4 LW 657 , rendered, after considering the Apex Court judgment in R.Govindasamy's case (cited supra). He also relied on another Hon"ble Division Bench judgment in W.A. No. 1211 of 2012, etc., dated 10.07.2014, wherein, the Principal Bench of the Madras High Court, has expressed the same view.

7. That apart, Learned Additional Advocate General further submitted that orders in Rev.Appl.Nos. 50 to 54 of 2013, in W.P. (MD)Nos. 5893 to 5897 of 2012, dated 29.01.2014, have been passed, without providing any reasonable opportunity to the appellants.

8. Per contra, inviting the attention of this Court to the orders of the Government, appended in the typed set filed by the respondents, regularising the appointment of part-time workers, from the date of their appointment, granting monetary, and other attendant benefits, and the orders made in the Review Application Nos. 50 to 54 of 2013, in W.P.(MD)Nos. 5893 to 5897 of 2012, dated 29.01.2014, to the effect that the appellants were only directed to treat the period, starting from the date of completion of 10 years, for monetary

and other benefits, Mr. Thalamuthuarasu, learned counsel appearing for the respondents submitted that there is no manifest error in the orders passed by the Writ Court, warranting interference. He prayed for dismissal of the writ appeals.

Heard the learned counsel for the parties and perused the materials available on record.

9. Before we advert to the above submissions, we make it clear that, for the purpose of other service benefits, it is the submission of the Learned Additional Advocate General, State of Tamil Nadu, that the service rendered by the part time employees would be taken into consideration, as per the rules and government orders in force. Submission is placed on record.

10. The issue raised in the present writ appeals is no longer *res integra*, in the light of the recent judgment of a Hon'ble Division Bench of this Court in *The State of Tamil Nadu Vs. M. Seeniammal*, (2014) 4 LLN 216 : (2014) 4 LW 657 .

11. The contention of the learned counsel for the respondents that earlier, several decisions have been rendered by this Court granting service and monetary benefits from the date of the initial appointment of the part time employees and that the same were also implemented, cannot be countenanced, in the light of the pronouncement of the Apex Court, which held that the part time employees, do not have even a right to claim regularisation. It should be noted that the Government have regularised the part time employees, at least from the date of issuance of the Government Orders, by relaxing the relevant rules, applicable to individual cases and extended monetary benefits from the date of issuance of such orders. When the right of the part time employees has been decided by the Apex Court, and when the Hon'ble Division Bench of this Court in *The State of Tamil Nadu Vs. M. Seeniammal*, (2014) 4 LLN 216 : (2014) 4 LW 657 , has held that part time employees, cannot seek for regularisation from the date on which they completed 10 years of service, it would be inappropriate to contend that the respondents should be given the service and monetary benefits, from the date on which they completed 10 years of service. The respondents should be content with what the Government have done. At this juncture, it is to be pointed out that the very same learned counsel Mr. Thalaimutharasu, who appear for the present respondents, had advanced similar arguments, in the above reported case.

12. For the reasons stated *supra*, the writ appeals are allowed, setting aside the portion of the common order made in W.P.(MD)Nos. 5893 to 5897 of 2012 and the common order made in Rev.Appl.Nos. 50 to 54 of 2013, directing the appellants to regularise the services of the respondents in all the appeals from the date, on which they completed 10 years of service, for granting monetary and service benefits. We make it clear that the respondents are entitled for regularisation only from the date of issuance of Government Orders, for monetary benefits. Other benefits extended by the Government by such orders

are not disturbed. No costs. Consequently, connected miscellaneous petitions are closed.