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M. Nagarajan Vs Director of Animal Husbandry and Others

Writ Petition No. 41632 of 2006

Court: Madras High Court

Date of Decision: Oct. 5, 2010

Citation: (2011) 1 LLJ 440

Hon'ble Judges: D. Hariparanthaman, J

Bench: Single Bench

Advocate: V. Gangatharan, for the Appellant; R. Neelakandan, Government Advocate, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

D. Hariparanthaman, J.
The Petitioner was employed as a Casual Labourer in the second Respondent farm from 1978. According to him,

there were breaks in service and he was employed after such breaks. After October 5, 1981, he was continuously employed. The Petitioner states

that he worked up to September 12, 1994. He applied for leave due to illness from September 13, 1994 to December 31, 1994. Thereafter, he

was not permitted to do the work. According to the Petitioner, he rendered 14 years of service without any break and about three years of service

with some breaks. Others, who were similarly situated like the Petitioner, were regularised in service by the third Respondent.

2. Hence, the Petitioner filed Original Application in O.A. No. 4935/2000 (W.P. No. 41632/2006) seeking for a direction to the Respondents to

give him re-employment.

3. The Respondents 1 and 2 filed reply affidavit stating that the Petitioner joined as Casual Labourer only during 1981. He worked for only 10

years. After 1991, he was absent. However, it is stated that the first Respondent sent proposals to the Government for regularisation of the

services of 1135 Casual Labourers in the Animal Husbandry Department and the Petitioner was one among them. It is also stated therein that the

Tamil Nadu Administrative Tribunal directed the Government to pass orders for bringing Casual Labourers into regular establishment. It is also

stated that there were ban orders for employment of Casual Labourers, as per G.O. Ms. No. 116, Animal Husbandry and Fisheries Department,

dated May 7, 1997. In these circumstances, the Respondents 1 and 2 sought for dismissal of the writ petition.

4. Heard the submissions made on either side and perused the materials available on record.

5. According to the Petitioner, he worked as Casual Labourer from 1978 onwards, with breaks up to 1981 and thereafter, he served

continuously. On the other hand, the Respondents 1 and 2 state that the Petitioner was employed only from 1981 up to 1991 and thereafter,

remained absent. But the Petitioner states that he worked up to September 12, 1994 and he applied for leave due to his illness from September

13, 1994 to December 31, 1994 and he was not given employment thereafter. However, I am not going into all those issues in view of the order

that is going to be passed hereunder.

6. In para 9 of the reply affidavit of the Respondents 1 and 2, it is stated that the first Respondent sent proposals to the third Respondent for

regularisation of 1135 Casual Labourers in the Animal Husbandry Department and the Petitioner is one among them. It is also stated that the Tamil

Nadu Administrative Tribunal directed the Government to pass orders for bringing the Casual Labourers into regular establishment. Accordingly,

the Government issued orders for bringing 826 Casual Labourers into regular establishment in the first phase.

7. In the present case, even according to the Respondents 1 and 2, the Petitioner had rendered 10 years of service and also the name of the

Petitioner is found in the proposals sent by the first Respondent to the third Respondent for regularisation of the services of Casual Labourers.

8. This Court, in a batch of writ petitions in W.P. Nos. 27705, 33011, 33017, 33022 to 33030, 33300, 35577 and 38514/2006, concerning

regularisation of NM Rs", passed an order dated March 13, 2007, in the following terms.

5. By a spate of orders passed right from the year 1981 upto 2006, the State Government appears to have adopted a uniform policy of

regularisation of the services of persons engaged in the Nominal Muster Roll, after they had completed a specified number of years of service. In

so far as persons engaged in the Nominal Muster Roll in Highways and Rural Works Department are concerned, the Government has passed the

following orders:

(i) G.O. Ms. No. 223, Transport Department, dated April 5, 1978

(ii) G.O. Ms. No. 422, Transport Department, dated April 9, 1979

(iii) G.O. Ms. No. 135, Transport Department, dated February 7, 1983

(iv) G.O. Ms. No. 95, Transport Department, dated February 4, 1988

(v) G.O. Ms. No. 788, Public Works Department, dated June 1, 1992

(vi) G.O. Ms. No. 67, Highways Department, dated March 25, 1998

6. Even recently, the Government issued orders in G.O. Ms. No. 22, Personnel and Administrative Reforms Department, dated February 28,

2006, directing the regularisation of services of persons engaged on daily wages basis in all Departments, if they had completed 10 years of service

as on January 1, 2006. Similar orders were passed in the Municipal Administration Department in G.O. Ms. No. 125, Municipal Administration

and water supply department, dated May 27, 1999. In so far as Highways and Rural Works Department is concerned, an order was issued in

G.O. Ms. No. 223, Highways (HK-3) Department, dated November 2, 2006, granting similar benefits.

7. Thus, the Government appears to be adopting a consistent policy for the past 25 years, in the matter of absorption and regularisation of the

services of Nominal Muster Roll employees and hence the Petitioners who are similarly placed are also entitled to the extension of the same

benefits.

8. Under the above circumstances, these writ petitions are ordered, direction the Respondents to extend the benefit of the aforesaid Government

Orders to the members of the Petitioner-associations, whose particulars are furnished in the Annexure to this order, with effect from the date on

which other similarly placed persons were granted such benefits and pass appropriate orders within a period of three months from the date of

receipt or production of a copy of this order. No costs.

9. In view of the aforesaid statement of the Respondents 1 and 2 in the reply affidavit and more particularly para 9 therein and also taking into

account the policy of the Government in regularising the services of the Casual Labourers and temporary employees, who have rendered long

years of service, the writ petition is disposed of with a direction to the first Respondent to consider the claim of the Petitioner for re-employment

and consequent regularisation into the services in the Animal Husbandry Department, within a period of eight weeks from the date of receipt of a

copy of this order. No costs.