



W.P.(MD)No.2383 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
WEB COPY

DATED: 30.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD)No.2383 of 2022

and WMP (MD) No.2058 of 2022

D.Shaju : Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Environment and Forest Department,
Secretariat, Chennai- 600 009.

2.The Primary Chief Conservator of Forest
and Chairman,
Head of the Forest Department,
Panagal Maaligai,
Saidapettai Chennai- 600 015.

3.The Primary Chief Conservator of Forest
and Chairman,
Arasu Rubber Corporation,
Velachery Main Road, Chennai.

4.The Managing Director,
Arasu Rubber Corporation, Nagercoil,
Kanyakumari District. : Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Writ of Mandamus, directing the



W.P.(MD)No.2383 of 2022

WEB COPY
respondents to regularize the service of the petitioner as driver from the date of the petitioner's initial appointment based on the petitioners representation dated 06.10.2021 and also in the light of the G.O.(Ms) No. 8 Environment and Forest fR2-II dated 22.01.2021.

For Petitioner : Mr.C.M.Arumugam

For Respondents : Mr.M.Senthil Ayyanar

Government Advocate for R1 to R3

Mr.A.K.Manickam for R4

O R D E R

This writ petition has been filed for a mandamus to the respondents to regularize the service of the petitioner as driver from the date of his initial appointment by considering his representation dated 06.10.2021 and also in the light of the G.O.(Ms) No.8 Environment and Forest (FR2-II), dated 22.01.2021.

2. The case of the petitioner is that he was appointed as driver on temporary basis with the office of the Additional Principal Chief Conservator of Forests (Social Forestry and Extension) as he possessed all the required qualifications. The petitioner was appointed as daily wager and the remuneration was given to him on every month by issuing hand receipt which was signed by the petitioner and



W.P.(MD)No.2383 of 2022

countersigned by the Additional Primary Chief Conservator of Forest.
WEB COPY

3. The petitioner from the date of his initial appointment as a temporary driver has extended his service to the satisfaction of all his superiors without any blemish. Further, the mode of payment of his remuneration was continuing by obtaining receipt from him till today. Subsequently, his service was transferred to the fourth respondent/Arasu Rubber Corporation under the same capacity as driver. The service of the petitioner with the respondents as driver is without any break and his service would be regularized as per law.

4. The learned counsel for the petitioner would submit that the copy of the hand receipt was also issued by the second respondent to the petitioner for the period from 2010 to 2014 and the copy of the salary receipt issued by the fourth respondent for the period from 2014 to 2024 was also filed before this Court by way of filing an additional typed set of papers on 14.10.2024.

5. The learned counsel drew the attention of this Court to the letter of the Deputy Manager, dated 25.06.2014 in Ref.No.E/2068/2014,



W.P.(MD)No.2383 of 2022

WEB COPY
wherein, it is stated that the petitioner namely D.Shaju, has been engaged to drive the vehicle in Keeriparai Division for one month period.

6. The learned counsel for the petitioner would further submit that the fourth respondent has issued tender notification dated 19.08.2024 for outsourcing/supply of manpower to the fourth respondent/Arasu Rubber Corporation Limited for the period from October, 2024 to August, 2025. He further submitted that in the employment registration/Identity Card issued by the Department of Employment and Training, District Employment and Career Guidance Centre, Kanyakumari, by which the date of registration of the petitioner as Driver (LMV) is shown as 19.12.2011 and Driver (HMV) is shown as 18.04.2015.

7. The learned counsel for the petitioner relied on an order passed in similar cases in a batch of writ petitions in W.P.Nos.2650 of 2019 and etc., batch wherein, this Court by order dated 12.06.2019, directed the respondents therein to regularise the service of the writ petitioners as Drivers. The relevant portion of the order is extracted hereunder:-



W.P.(MD)No.2383 of 2022

WEB COPY

“22. The respondents are directed to regularize the services of these writ petitioners as Drivers from the date of initial appointment of the respective writ petitioners with all consequential and attendant benefits. The direction shall be complied with by the first respondent or any other competent authority within a period of eight weeks from the date of receipt of a copy of this order.”

8. In the aforesaid order dated 12.06.2019, the fourth respondent/Arasu Rubber Corporation Limited is one of the respondents in W.P.No.2665 of 2019. Against the said order, the Government had preferred an appeal in W.A.No.391 of 2020 and etc., batch, in which a Division Bench of this Court by its judgment dated 30.03.2020 confirmed the order passed by the learned Single Judge on 12.06.2019 in W.P.Nos.2650 of 2019 and etc., batch. The relevant portion of the judgment is extracted and the same reads as follows:-

“7. We have considered the submissions



WEB COPY

W.P.(MD)No.2383 of 2022

raised and we find no reason to differ from the view taken by the Division Bench while confirming the judgment of the learned Single Judge, issuing directions for regularization. But, insofar as the date from which such regularization will be given effect to being sub-judice before the Apex Court, we direct that the respondents/petitioners shall be regularized and so far as the date of regularization is concerned, the same will be governed by the outcome of the judgment of the Apex Court. 8.

The learned Additional Advocate General, on instructions, states that the respondents/petitioners will be regularized and the regularization orders will be issued within four weeks from the date of production of a copy of this order. We record this and direct accordingly.”

9. The appointment of the petitioner was as early as in



W.P.(MD)No.2383 of 2022

WEB COPY March 2010, even after the lapse of several years his service was not regularized and therefore, he preferred representation on various dates and the same was received by the respondents. However, the said representations were not considered even after considering the grievance of the similarly placed persons. In this regard, several writ petitions were filed before this Court and those writ petitions were allowed. As against which, the Government preferred Writ Appeals and the same was also dismissed by this Court.

10. The learned counsel for the petitioner would submit that the question of regularization went up to the Hon'ble Supreme Court and the same was decided in favour of the writ petitioners/drivers. However, insofar as the date from which the regularisation will be given effect is pending before the Hon'ble Supreme Court. He would further submit that considering all the surrounding circumstances, the Government have issued G.O.(Ms) No.8, Environment and Forest (FR2-II), dated 22.01.2021 and thereby, the Government has given relaxation as contemplated under the Government Servants (Conditions of Service Act, 2016) and also under the Provisions of Tamil Nadu Forest Subordinate Service Special Rules regarding age and the said



W.P.(MD)No.2383 of 2022

WEB COPY
Government Order was also given effect. However, the case of the petitioner was not considered by the respondent till date though similarly placed persons got regularization of their appointment. Hence, the petitioner has come forward with the present writ petition.

11. A counter-affidavit was filed by the fourth respondent/Arasu Rubber Corporation. The learned Standing Counsel appearing for the fourth respondent submitted that since the Forest Department and Arasu Rubber Corporation are different entities and so the working in Arasu Rubber Corporation cannot be considered as continuation with that of the Forest Department. In the fourth respondent Corporation, the writ petitioner is engaged as casual worker and has been paid daily wages for the days he had worked temporarily as per day to day requirements and the writ petitioner was never selected in terms of the relevant recruitment rules. He would further submitted that as per the salary for the month of September 2024, the petitioner was referred as casual labourer only and not as driver.

12. The learned Standing Counsel further submitted that the G.O.(Ms) No.8 Environment and Forest (FR2-II) dated 22.01.2021,



W.P.(MD)No.2383 of 2022

cannot be directly applicable to the petitioner and it is based on the veracity of individual cases. He also relied on the judgment of the Hon'ble Supreme Court in the case of State of ***Karnataka & Ors., v. Umadevi*** reported in ***AIR 2006 SC 1806***.

13. The learned Standing Counsel appearing for the fourth respondent further submitted that as per the minutes of the review meeting in respect of the public sector undertakings held on 15.05.2024, it has been decided to merge Arasu Rubber Corporation with Tamil Nadu Tea Plantation Corporation Limited and Tamil Nadu Forest Plantation Corporation Limited.

14. The learned Standing Counsel appearing for the fourth respondent furnished the category-wise officers and staff details in Arasu Rubber Corporation Limited, Nagercoil as on 31.08.2024 in Annexure-1, wherein, it has been stated that there is one post of driver vacant and one post of Line Man/Wireman and the said details were furnished duly by the Managing Director on 24.10.2024.



WEB COPY

15. Heard both sides and perused the material available on record.

16. It is the admitted fact that the petitioner was working as a temporary driver in the office of the first and second respondents from March 2010, till he jointed the fourth respondent/Arasu Rubber Corporation Limited in the year 2014. Thereafter, he is working continuously till date with the fourth respondent. The contention of the fourth respondent is that the regularisation of the service of the petitioner as a driver cannot be considered for the reason that the fourth respondent Corporation is going to be merged with Tamil Nadu Tea Plantation Corporation Limited and Tamil Nadu Forest Plantation Corporation Limited. Though, there is one vacancy available to the post of Driver, the petitioner cannot be accommodated for the said reason. In the monthly pay slip for the month of September 2024, it is mentioned as against the name of the petitioner as casual worker only and not as Driver.

17. According to the fourth respondent Corporation, the petitioner was not only discharging the duty of Driver but working in



W.P.(MD)No.2383 of 2022

other capacity also. According to the tender notification issued by the
WEB COPY
fourth respondent Corporation dated 19.08.2024, the supply of
manpower is for the period from October, 2024 to August, 2025. The
petitioner is having qualification to the post of Driver and he has also
registered in the District Employment and Career Guidance Centre,
Kanyakumari, as early as Driver (LMV) on 19.12.2011 and Driver
(HMV) on 18.04.2015.

18. The learned counsel for the petitioner placed reliance
on the order passed by this Court dated 12.06.2019 in W.P.Nos.2650
of 2019 and etc., batch, wherein this Court had directed the
respondents to regularise the temporary services of the writ
petitioners, in which the fourth respondent Corporation is also one of
the respondents therein. Thereafter, the appeal preferred by the
Government in W.A.No.391 of 2020 and etc., batch, and the same
was dismissed by the Division Bench of this Court by its judgment
dated 30.03.2020 and confirmed the order passed by the learned
Single Judge on 12.06.2019 in W.P.Nos.2650 of 2019 and etc., batch.

19. According to the fourth respondent Corporation,



W.P.(MD)No.2383 of 2022

WEB COPY
there is one vacancy to the post of Driver and one vacancy to the post

of Line Man/Wireman as on 31.08.2024. This Court is of the view that there is no impediment for the fourth respondent Corporation to regularise the service of the petitioner as Driver since he has completed ten years of service in the fourth respondent Corporation.

As per the tender notification dated 19.08.2024, the supply of manpower is for the period from October, 2024 to August, 2025 and even assuming the merger of the fourth respondent/Arasu Rubber Corporation Limited with Tamil Nadu Tea Plantation Corporation Limited and Tamil Nadu Forest Plantation Corporation Limited, the services of the petitioner shall be utilized as a Driver. If the fourth respondent Corporation is not in a position to regularise the services of the petitioner as a Driver, he shall be accommodated and regularised in the post of Line Man/Wireman since the petitioner has got the required qualification i.e., 'B' License Card issued by the Secretary, Electrical Licensing Board in Wireman Competency Certificate No.B 136483.

20. Furthermore, the petitioner has also enclosed his experience certificates dated 21.12.2005 and 06.02.2008 wherein, it



W.P.(MD)No.2383 of 2022

WEB COPY
has been stated that he has been worked as Electrician. Hence, the petitioner is eligible not only for the post of Driver which he is working for the last 14 years but also for the post of Line Man/Wireman since he has acquired requisite qualification and it is evident from 'B' License issued by the Secretary, Electrical Licensing Board in Wireman Competency Certificate No.B 136483.

21. Therefore, this Court is of the considered view that the petitioner is eligible either for regularisation of his service as Driver from the date of his initial appointment or to be accommodated in the post of Line man/Wireman and to regularise his service.

22. In view of the above factual matrix, this Court is inclined to pass the following directions:-

(i) The fourth respondent is directed to regularize the service of the petitioner as Driver from the date of his initial appointment by considering his representation dated 06.10.2021 and also in



WEB COPY



W.P.(MD)No.2383 of 2022

**the light of the G.O.(Ms) No.8, Environment
and Forest (FR2-II), dated 22.01.2021;**

**(ii) Or, he shall be accommodated and
regularised in the post of Line man/Wireman
since he possessed the required qualification
for the said post.**

**(iii) Such exercise shall be completed
within a period of eight (8) weeks from the
date of receipt of a copy of this order.**

23. In the result, the writ petition stands allowed with the above directions. Consequently, the connected miscellaneous petition is closed. No costs.

30.10.2024

Index : Yes / No
Internet : Yes / No

PKN



W.P.(MD)No.2383 of 2022

To

WEB COPY

1. The Secretary to Government,
Government of Tamil Nadu,
Environment and Forest Department,
Secretariat, Chennai- 600 009.
2. The Primary Chief Conservator of Forest
and Chairman,
Head of the Forest Department,
Panagal Maaligai,
Saidapettai Chennai- 600 015.
3. The Primary Chief Conservator of Forest
and Chairman,
Arasu Rubber Corporation,
Velachery Main Road, Chennai.



W.P.(MD)No.2383 of 2022

WEB COPY

J.SATHYA NARAYANA PRASAD, J.

PKN

W.P.(MD)No.2383 of 2022

30.10.2024