

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 13.4.2015

Pronounced on 15.4.2015

Coram:

THE HONOURABLE MR.JUSTICE M.JAICHANDREN
and
THE HONOURABLE MR.JUSTICE T.MATHIVANAN

W.A.No.1217 of 2012

G.Elangovan

...Petitioner

vs.

1. The Chairman & Managing Director
(Telecommunication Consultants India Ltd.,)
TCIL Bhavan, Greater Kailash
New Delhi - 1

2. The General Manager
TCIL No.20, Potters Street
Saidapet, Chennai-600 015.

...Respondents

Prayer: Writ appeal has been filed to set aside the order passed
in W.P.No.26565 of 2007 dated 27.3.2012.

W.P.No.26565 of 2007:

Petition under Article 226 of the Constitution of India praying
to issue a writ of Certiorarified Mandamus calling for the records of
the second respondent culminating in and by his proceedings No.
TCIL/01/004/014(A)/VI/98-SR dated 29.6.2007, quash the same and
consequently direct the respondents to regularise the petitioner's
service in the respondent Corporation.

For petitioner : Mr.V.Bharathidasan for
Mr.A.Sundaravadhanan

For Respondents : M/s.R.Rathna Thara
for R1 and R2

O R D E R
(Order of the Court was made by M.JAICHANDREN, J.)

This writ appeal has been filed against the order of the learned single Judge, dated 27.3.2012, made in W.P.No.26565 of 2007.

2. It has been stated that the appellant herein, the writ petitioner in W.P.No.26565 of 2007, had been appointed as a Technical Assistant in the respondent Company, on 30.11.1998, on contract basis, on consolidated pay. Initially, the appointment of the appellant in the respondent Company was for a period of six months. Subsequently, the service of the appellant had been extended, continuously, till 30.6.2007. The appellant had been working with the respondent Company for a period of nearly 9 years, on contract basis.

3. It has been further stated that, even though similarly placed persons had been regularised in service, the service of the appellant had not been regularised, in spite of his repeated requests. In fact, the service of the appellant had been terminated, from 30.6.2007, by an order passed by the respondent, dated 29.6.2007. Challenging the said order, the appellant had filed a writ petition before this Court, in W.P.No.26565 of 2007.

4. The learned single Judge, by his order, dated 27.3.2012, made in W.P.No.26565 of 2007, had dismissed the writ petition filed by the appellant accepting the contentions raised on behalf of the respondent that the employment of the appellant was only of a temporary nature and it was on contract basis. The learned single Judge had found that the appellant had not been posted in a regular post and that he had been employed for specific periods by way of separate contracts, on consolidated pay. The learned single Judge had also found that certain other persons, who had been regularised in service, were not belonging to the same cadre or category as that of the appellant.

5. The learned counsel appearing on behalf of the appellant had submitted that the appellant had been working with the respondent, for many years, on contract basis. While similarly placed persons, like that of the appellant, had been regularised in service, the service of the appellant had not been regularised. As such, the act of the respondent in not regularising the service of the appellant is discriminatory in nature and contrary to the principles enshrined in Article 14 of the Constitution of India.

6. Per contra, the learned counsel appearing for the respondent had submitted that the appellant had been employed only on a contract basis, on consolidated pay. The appointment of the appellant is project based and it is co- terminus with the project in question. She had further submitted that the appellant cannot compare himself with certain other persons, who had been regularised in service, as the service rendered by the appellant with the respondent is different in nature from that of the other persons, whose services had been regularised.

7. The learned counsel had further submitted that the appellant cannot claim any vested right for being regularised in service, as claimed by him. The employment of the appellant was purely contractual in nature, based on the project concerned. The learned counsel had relied on the decision of the Supreme Court, in MOHD. ABDUL KADIR Vs. DIRECTOR GENERAL OF POLICE (2009) 6 SCC 611, in support of her contentions.

8. In view of the submissions made by the learned counsels appearing for the parties concerned and on a perusal of the records available, it is noted that the employment of the appellant was purely contractual in nature. The appellant had been employed on a contract basis, on consolidated pay. The appellant has not been in a position to show that he had a vested right to be regularised in service. Further, the appellant has not been in a position to substantiate his claim that the nature of his employment is comparable with that of certain other persons, who had been regularised in service. As there is no legal right to be enforced, the contentions raised on behalf of the appellant cannot be countenanced. In such circumstances, We do not find sufficient cause or reason to interfere with the order passed by the learned single Judge, dated 27.3.2012, made in W.P.No.26565 of 2007. As the present writ appeal is devoid of merits, it is liable to be dismissed. Hence, the writ appeal is dismissed. No costs.

Sd/-

Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

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New Delhi - 1

2. The General Manager
TCIL No.20, Potters Street
Saidapet, Chennai-600 015.

1 CC to M/s.R.Rathna Thara, Advocate SR.No. 20820

1 CC to Mr.A.Sundaravadhanan, Advocate SR.No. 20615

W.A.No.1217 of 2012

NM (CO)
PSI (29.04.2015)



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