



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 11.08.2015
CORAM

THE HON'BLE Mr. JUSTICE R.SUDHAKAR
AND
THE HON'BLE Ms. JUSTICE V.M.VELUMANI

W.A.(MD)No.738 of 2011
and
M.P.(MD)No.1 of 2011

The Executive Officer,
Devadanapatti Town Panchayat,
Devadanapatti - 625 602
Theni District.

.. Appellant/2nd Respondent

vs.

1. P. Selvam

.. 1st Respondent/Petitioner

2. The District Collector,
Theni District,
Theni.

3. The District Employment Officer,
Collectorate Compound,
Theni.

.. 2nd & 3rd Respondents/Respondents 1&3

Appeal filed under under Clause 15 of the Letters Patent
against the Order dated 14.06.2011, made in W.P.(MD)No.5342 of
2008.

Prayer in WP(MD). 5342/ 2008 :

Petition presented under Article 226 of the Constitution of
India to issue a Writ of Mandamus, directing the First and Second
respondents to regularized the petitioners service as Overhead
Tank Watchman in the Manjalar Dam, Devadanapatti village,
periyakulam taluk, theni district with all other benefits

For Appellant : Mr.M. Saravanakumar

For R1 : No appearance

For R2 and R3 : Mr. A.K. Baskara Pandian
Special Government Pleader

JUDGMENT



This Writ Appeal has been filed by the appellant to set aside the Order dated 14.06.2011, made in W.P.(MD)No.5342 of 2008.

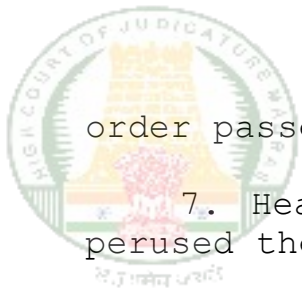
2. The first respondent herein filed writ petition for a direction to the appellant and second respondent to regularise the first respondent's service as Over Head Tank Watchman in the Manjalar Dam, Devathanapatti Village, Periyakulam Taluk, with all other benefits.

3. According to the first respondent, his father Late Palaiah Thevar was working as Over Head Tank Operator in appellant Town panchayat. While his father was in service with appellant, he became sick and first respondent was assisting him in discharging the duties. Subsequently, first respondent's father died. The first respondent was appointed to the said post and he was paid Rs.500/- per month. The said salary was increased periodically. The first respondent gave number of representations to regularise his services. The first respondent's mother also gave a representation to give appointment to the first respondent due to the death of first respondent's father, while he was in service. While so, the appellant bifurcated the post of Over Head Tank Watchman, and was taking steps to appoint third parties without considering the claim of the first respondent. The appellant called for names of eligible candidates from the third respondent. The first respondent's name was not sponsored by third respondent, as the first respondent's name was kept in dormant register, on the ground that the first respondent was working in the appellant Town Panchayat. The appellant was conducting interview without considering the claim of the first respondent. In the said circumstances, the first respondent filed W.P(MD).No.5342 of 2008. The appellant has not filed counter affidavit.

4. The learned Judge, considering the facts that the first respondent worked for more than a decade, directed the appellant to consider the grievance of the first respondent for regularisation of service as Over Head Tank Watchman in the Manjalar Dam, Devathanapatti Village, Periyakulam Taluk, Theni District, in accordance with law.

5. Against the said order, the appellant has filed the present appeal.

6. The learned counsel for the appellant contended that the first respondent was working on consolidated wages and therefore, he is not entitled to regularisation. The appellant followed the procedure in appointing persons for Over Head Tank Watchman. The first respondent's father was working on consolidated wages and the first respondent is not entitled to appointment on compassionate ground. The order of learned Judge is contrary to law and prayed for allowing the Writ Appeal and set aside the



order passed in Writ Petition.

7. Heard the learned counsel appearing for both parties and perused the materials on record.

8. From the records, it is seen that the first respondent was working in the service of appellant for more than a decade. Further, the first respondent's father died, while he was in service. The first respondent registered his name with the third respondent, District Employment Officer, Collectorate Compound, Theni. In spite of his seniority, his name was not sponsored on the ground that he was already working in the appellant Town Panchayat.

9. For the above reasons, the learned Judge has directed the appellant and the second respondent to consider the grievance of the first respondent for regularization of his service, as Over Head Tank Watchman. It is an admitted fact that first respondent was assisting his father, while he was in the service of the appellant. After the death of his father, he was employed as a Over Head Tank Watchman, continuously for more than a decade. In the circumstances, there is no infirmity or illegality in the said order. The Writ Appeal is devoid of merits and is liable to be dismissed. Accordingly, the Writ Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

sd/-

Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To

1.The District Collector,
Theni District, Theni.

2.The District Employment Officer,
Collectorate Compound,
Theni.

+ 1 CC TO MR.M.SARAVANAKUMAR, ADVOCATE IN SR NO. 45776

TRP

TE/NGM-SS/SAR(PA) 09/09/2015 3P/4C

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