

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.15794 of 2015
and M.P.No.1 of 2015

S.Chinnaraj

.. Petitioner

vs.

The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore-641 001. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondent to regularize the petitioner's service in the post of driver after taking note of his continuous employment from 14.10.1997 by considering his representation dated 29.04.2015 as per G.O.Ms.No.37 dated 01.02.2011 issued by the Municipal Administration and Water Supply Department.

For Petitioner : Mr.N.Manoharan

For Respondent : Mr.K.Magesh

O R D E R

This Writ Petition has been filed praying for issuance of a Writ of Mandamus directing the respondent to regularize the petitioner's service in the post of driver after taking note of his continuous employment from 14.10.1997 by considering his representation dated 29.04.2015 as per G.O.Ms.No.37 dated 01.02.2011 issued by the Municipal Administration and Water Supply Department.

2. The petitioner, in the affidavit filed in support of this writ petition, would state that in pursuant to the permission granted by the District Collector, Coimbatore in Proceedings No.9744/96/Pe.3 dated 02.04.1997, the Kalapatti Town Panchayat had purchased a tractor and the petitioner was appointed as a driver on daily wage basis on 14.10.1997. Subsequently, the State Government issued G.O.Ms.No.225 (Department of Municipal Administration and Water Supplies) dated 12.09.2007 to enable the local bodies to operate a driver post for each one of the four wheelers being used by the Panchayats. The petitioner would further state that the Executive Officer of Kalapatti Town Panchayat forwarded a proposal dated 16.04.2008 to the Commissioner of Town Panchayat, Chennai-108, followed by a reminder dated 10.06.2009, recommending for regularizing the petitioner's service in the post of driver and inspite of it, no action was taken and therefore, the

petitioner submitted a representation to the Chief Minister's Grievance Cell, which has been forwarded to the Assistant Director of Town Panchayat for further action and the Assistant Director of Town Panchayat called for a report from the then Executive Director as to the compliance of earlier Government Order in G.O.Ms.No.225 dated 12.09.2007.

3. The petitioner would state that subsequently, the Government issued G.O.Ms.No.37, Municipal Administration and Water Supply Department, dated 01.02.2011 inter alia permitting all the Town Panchayats to create any number of driver posts to operate the tractors and other four wheelers and also permitted the Panchayats to regularize the services of the drivers working as NMRs/daily wage employees in the permanent post under regular time scale of pay. The petitioner would further state that inspite of above said developments, the petitioner's service, as driver, has not been regularized and while so, the Kallapatti Village Municipality was merged with the Coimbatore City Municipal Corporation as per G.O.Ms.Nos.49 and 72 dated 22.2.2011 and 12.05.2011 respectively and the respondent sent necessary proposals for absorption of the posts and staff of the merged local bodies with the Corporation and the State Government after careful consideration of the recommendations of the respondent, granted permission to absorb 368 posts and staff in the merged local bodies and the petitioner's name along with other daily wages/NMR's were also included in the said list and duly absorbed by the respondent Corporation, vide G.O.Ms.No.117, Municipal Administration and Water Supply Department dated 1.12.2012. The grievance expressed by the petitioner is that though he has been working as a daily wage employee for more than 17 years, the Panchayat did not take any steps to regularize his service and in this regard, the petitioner has also submitted a representation dated 29.04.2015 and since, it was not favoured with any kind of response, came forward with this writ petition.

4. Mr.N.Manoharan, learned counsel appearing for the petitioner would submit that continuous service for a period of 10 years without intervention of the Court is prima facie qualification for regularization of service and it is also well settled position of law that daily wage/muster roll employees, after completion of 10 years and more continuous service with a minimum of 240 days in a calendar year have to be regularized in the available permanent posts and prays for appropriate orders.

5. Heard the submissions of Mr.K.Magesh, learned Standing Counsel appearing for the respondent who has drawn the attention of this Court to the counter affidavit of the respondent and would submit that though the Corporation has given an advertisement for the post of driver in newspaper, the petitioner is not eligible for the said post as per his service records and hence, his representation was not taken into consideration by the respondent and prays for dismissal of this writ petition.

6. This Court has considered the rival submissions and also perused the materials placed before it.

7. In the light of the above facts and circumstances, this Court directs the respondent to consider and dispose of the petitioner's representation dated 29.4.2015, by taking note of the petitioner's continuous employment in the post of Driver from 14.10.1997 and also in the light of G.O.Ms.No.37, Municipal Administration and Water Supply Department dated 01.02.2011 and pass orders within a period of six weeks from the date of receipt of a copy of this order.

8. This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Jvm

Sd/-
Assistant Registrar (CS)
/TRUE COPY/
Sub-Assistant Registrar

To
The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore-641 001.

+1CC to M/S.K.MAGESH, Advocate SR.NO.52696
+1CC to M/S.N.MANOKARAN, Advocate SR.NO.52677

W.P.No.15794 of 2015

RSI[CO]
MK:24/10/2016

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