

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.41454 of 2016

N.Narayanasamy

.. Petitioner

Vs

- 1 The State of Tamil Nadu
rep by its Secretary to Government Rural
Development and Panchayat Raj Department
Secretariat Chennai-9
- 2 The Director of Rural
Development Directorate of Rural
Development and Panchayat Raj Panagal
Building Saidapet Chennai-15
- 3 The District Collector
Nagapattinam District Nagapattinam ... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the first respondent to consider and pass order on the proposal sent by the third respondent in Lr. Na.Ka. No.1530/ RD.2/ 2012 dated 8.3.2016 inr egard to regularization of the petitioner's service in the post of Office Assistant and accordingly, pay the petitioner's retirement benefits w.e.f. 31.12.2014.

For Petitioner : Mr.G.Elanchezhiyan

For Respondents : Mr.K.Dhananjayan,
Spl. Govt. Pleader.

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a mandamus, directing the first respondent to consider and pass orders on the proposal sent by the third respondent in Lr. Na.Ka. No.1530/ RD.2/ 2012 dated 8.3.2016

with regard to regularization of his service in the post of Office Assistant and accordingly, pay his retirement benefits with effect from 31.12.2014.

3. It is the case of the petitioner that he was initially appointed as Cholera Mazdoor in Government Primary Health Centre in the year 1983 and as such he has completed 15 years of service in the said post. Thereafter, he was terminated from service for want of vacancy. Hence, he made several representations to the panchayat Union Commissioner to appoint him in the existing vacancies, who in turn, sent a proposal to the Director of Public Health and Preventive Medicine and Director of Rural Development to absorb him as permanent employee in the existing vacancy. Since the said proposal was not considered, the petitioner filed O.A.No.374 of 1998 before the Tamil Nadu Administrative Tribunal seeking to regularize his service in any one of the post and the tribunal, granted an interim order not to terminate the service of the petitioner. Even thereafter, his claim was not considered. The Government vide G.O.Ms.No.52 Finance Department dated 14.1.1977 had given an instruction to all the departments to bring all the contingent staff, who have completed five years of service, into regular establishment. Further, by G.O.Ms.No.107 P & Ar Department dated 5.2.1987, the Government empowered the Head of Departments to create posts to bring the contingent staff into regular establishment. In spite of those Government Orders, the department has not regularized the service of the petitioner. Hence, the petitioner filed O.A.No.5588 of 2001 before the Tamil Nadu Administrative Tribunal and the tribunal, by order dated 13.8.2001, directed the respondents to post him in any of the vacancies of basic servant or watchman arising in future. However, his claim was rejected on the ground that there was a ban for appointment. Challenging the said rejection, the petitioner approached this Court by filing writ petition in W.P.No.9809 of 2006 and this Court by order dated 7.4.2006, directed the respondents to consider the claim of the petitioner on the basis of the order of the tribunal. Thereafter, the Panchayat Union Commissioner has re-instated him into service. However, all of a sudden, without any notice and without giving any opportunity, the appointment of the petitioner was cancelled, against which, the petitioner filed a writ petition in W.P.No.9278 of 2008 and this Court by order dated 26.11.2013, directed the respondents to appoint him in the permanent vacancy with effect from 1.6.2007. Pursuant to the said order, the petitioner was appointed as Office Assistant in the regular time scale of pay. Thereafter, his service was not regularized. In this regard, the third respondent sent a proposal dated 8.3.2016 for regularizing his service from the date of initial appointment. Since the same was not considered so far, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

4. I have heard the learned counsel appearing for the petitioner and the learned Special Government Pleader, who has taken notice on behalf of the respondents.

5. Considering the facts and circumstances of the case and considering the submissions made on either side, without going into the merits of the claim projected by the petitioner, this Court directs the first respondent to consider the representation of the petitioner dated 8.7.2016 seeking regularization of his service in the post of Office Assistant and pass appropriate orders on merits in accordance with law and also based on the proposal sent by the third respondent in Lr. Na.Ka. No.1530/ RD.2/ 2012 dated 8.3.2016, within a period of eight weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

sbi

To

1 The Secretary to Government Rural
Development and Panchayat Raj Department
Secretariat Chennai-9

2 The Director of Rural
Development Directorate of Rural
Development and Panchayat Raj Panagal
Building Saidapet Chennai-15

3 The District Collector
Nagapattinam District Nagapattinam

1 cc to Mr.G. Elanchezhian, Advocate, Sr. 69584

1 cc to Government Pleader, Sr. 69644

W.P.No. 41454 of 2016

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