

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2017

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.Nos.20584 and 20585 of 2013

R.Bannari .. Petitioner in
W.P.No.20584 of 2013

S.Rajendran .. Petitioner in
W.P.No.20585 of 2013

Vs.

The District Collector/Chairman,
Kattida Maiyam,
Coimbatore. .. Respondent in
both the W.Ps

Petitions filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorari to call for the records relating to the impugned order passed by the respondent in his proceedings in ROC No.1202/2013/A1 dated 22.05.2013 and quash the same.

For Petitioner .. Mr.T.Chellapandian
for Dr.G.Krishnamurthy
in both the W.Ps

For Respondent .. Mr.T.M.Pappiah,
Spl. Govt. Pleader
in both the W.Ps

COMMON ORDER

Both the writ petitions are taken up together since they raise common grounds and issues.

2.The case of the petitioners is as follows:

(i)The petitioner in W.P.No.20584 of 2013 was working as Store Keeper from 02.01.1995 at Kattida Maiyam, Coimbatore. Before his appointment as Store Keeper, the petitioner was subjected to selection and on the basis of the interview held on 21.08.1995, he was selected and appointed and he joined service on 02.10.1995. The petitioner in W.P.No.20585 of 2013 was appointed as Supervisor on 25.10.1995 and subsequently appointed as Assistant Project Engineer on 25.01.1996 and thereafter, selected as Project Engineer on 06.06.1997 and was working as such in Kattida Maiyam, Coimbatore.

(ii)According to the petitioners, they have been in continuous employment since the date of their initial appointment on 02.10.1995 and 25.10.1995 respectively. According to the petitioners, many persons worked like them for number of years without the benefit of regularisation, had represented to the authorities concerned and on the basis of the same, the Principal Secretary to Government, Rural Development and Panchayat Raj Department, Government of Tamil Nadu, has called for the particulars from all the respective employees like the petitioners and on the basis of the service particulars, the names of such of those persons including the petitioners have been recommended for absorption into Government service.

(iii)While so, without any notice, an order was issued on 22.05.2013 by the respondent relieving the petitioners from service on the ground that they are not appointed by following the proper procedure. The said proceedings of the respondent is put to challenge in these writ petitions.

(iv)At the time of admitting the writ petitions, interim stay has been obtained and by virtue of the interim order passed by this Court, both the petitioners have continued in service and are working as such.

3.Mr.T.Chellapandian, learned counsel appearing for the petitioners would submit that the Government has issued series of orders regularising the service of the employees, who were working on temporary basis for almost ten years. He would draw the Court's attention to G.O.Ms.No.139 Rural Development Department dated 28.09.2013. He would also draw the court's attention to the latest Government Order in G.O.Ms.No.76 Rural Development Department dated 01.07.2016, in and by which, a number of employees, who were recruited and appointed and worked like the petitioners at Kattida Maiyam in various places have been given the benefit of regularisation. Learned counsel would also draw the Court's attention to the counter statement filed on behalf of the respondent particularly, para 5, which is extracted below:

"5.Vide D.O.Lr.No.14063/2013-1/E3 dated 07.06.2013 of the Principal Secretary to Government, Rural Development and Panchayat Raj Department, Chennai has instructed that a proposal to absorb the NMR Project Engineers working in Kattida Maiyam functioning in the Districts and to bring them into the fold of Rural Development and Panchayat Raj Department, Engineering Wing as Assistant Engineer/Overseer etc., is under the consideration of the Government. Therefore I am to request you to explore the possibilities of utilizing the services of Thiru.S.Rajendran, formerly Project Engineer and Thiru.R.Bannari, Store Keeper, under some other project work in Rural Development and Panchayat Raj Department control as is being done by other Districts and send a report in due course."

4.Learned counsel appearing for the petitioners would also draw the attention to the averments in para 6 and 7 of the counter, wherein it is stated that a proposal for absorbing the petitioners could not be taken up in view of the pendency of the writ petitions filed by the petitioners before this Court. In fact, as could be seen in para 5 of the counter statement, which is extracted supra, the petitioners' cases have been recommended by the competent authority and therefore, there can be no justification in keeping them on temporary basis, particularly, in view of the fact that similarly placed employees are conferred with the benefit of regularisation under various Government Orders, as cited by the learned counsel for the petitioners.

5.Upon notice, Mr.T.M.Pappiah, learned Special Government Pleader entered appearance on behalf of the respondent and opposed for grant of any relief to the petitioners on the ground that no service particulars of the petitioners were available and therefore, it cannot be said that the petitioners were in continuous employment for all these years since the date of their initial appointment. This argument advanced by the learned Special Government Pleader cannot be countenanced both in law and on facts for the simple reason that the petitioners' service records are not available with the appointing authority and therefore, the said submission does not merit any consideration by this Court.

6.In view of the above, this Court has no hesitation in allowing the writ petitions. In the said circumstances, the impugned order passed by the respondent dated 22.05.2013 is quashed and the respondent is directed to initiate steps to regularise the services of the petitioners in their respective positions, if they are otherwise qualified, in terms of the

various Government Orders particularly G.O.Ms.No.76 Rural Development Department dated 01.07.2016. The said exercise shall be completed within a period of three months from the date of receipt of a copy of this order. The regularisation shall take effect from the date of initial appointment of the petitioners, however with all other attendant benefits, excluding the arrears of salary, which is payable for the period in question.

7.The writ petitions stand allowed on the above terms. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mmi

To

The District Collector/Chairman,
Kattida Maiyam,
Coimbatore.

+ 4 ccs to M/s. V. Jai Sankar, Advocate Sr.52318, 52319

+ 1 cc to Government Pleader Sr.63327

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of 2013

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