IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :06.12.2017
CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.29777 of 2014
and
M.P.Nos.1 to 3 of 2014

I.Ruban Austin ..Petitioner

vs

1.The Principal Secretary to Government,
Department of Rural Development and Panchayat Raj,
Secretariat,
Chennai.

2.The Chairperson/Managing Director,
Tamil Nadu State Supply and
Marketing Society, having its Registered Office
at Tamil Nadu Corporation for
Development of Women
Annai Terasa Women's Complex,
Valluvarkottam High Road,
Nungambakkam, Chennai - 34. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent made in proceedings in Roc.N.3575/G2/2012-1 dated 11.07.2014 and quash the same and consequently direct the 2nd respondent to issue posting order to its original post as Manager of 2nd Respondent.

For Petitioner : M/s.N.Umapathi
For Respondents: Mr.A.Rajaperumal
Additional Government Pleader
for R1
M/s.P.Rajalakshmi for R2

O R D E R

The order dated 11.07.2014, re-posting the petitioner to the post of Manager as District Supply Marketing Society [hereinafter referred to as "DSMS"] at Vellore from additional charge Manager(incharge) as Tamil Nadu State Supply Marketing Society [hereinafter referred to as "SSMS"] is under challenge in this writ petition.

2.The writ petitioner was initially appointed as Manager in "DSMS" in proceedings dated 03.01.2005. On a perusal of the

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order, it is clear that the writ petitioner was appointed as Secretary/Manager, Sivaganga District in "DSMS" on contract basis. Initial appointment of the writ petitioner is on contract basis as per the terms and conditions issued by the Government in G.O.Ms.No.111, Rural Development and Panchayat Raj (CGS-3)Department dated 19.11.2012. Subsequently, the writ petitioner was transferred and posted from Sivaganga District Manager "DSMS" to "SSMS" as Manager incharge.

3.The contention of the petitioner is that he was allowed to continue as Manager of "SSMS" for a considerable length of time. However, the salary attached to the post of Manager of "SSMS" has not been paid to him. Contrarily, the salary as applicable to the Manager of "DSMS" alone was paid to him. Now, the impugned order has been passed, relieving the writ petitioner from Manager incharge of "SSMS" and he was posted once again to his original post to Vellore as "DSMS" Manager.

4.The learned counsel appearing on behalf of the respondents states that the petitioner was initially appointed as contract basis and all along, he was continuing only as contract employee. However, in view of the urgency, he was posted as Manager incharge of "SSMS". In fact, he was appointed as Manager of "DSMS" and at no point of time, he was appointed permanently in the post of "SSMS". It is not a regular appointment and the writ petitioner was made to work only as incharge Manager of "SSMS" for a temporary period and on administrative urgency. Therefore, the petitioner has no right to claim that he must be allowed to continue in the same post of Manager of "SSMS" permanently. Therefore, he cannot be posted permanently in the post of Manager of "SSMS".

5.Firstly, the initial appointment of the petitioner was on contract basis. Subsequently, he was transferred from the post of Manager of "DSMS" to the post of Manager of "SSMS" only as incharge. After sometime, he was relieved from the post of Manager incharge of "SSMS" and reposted to his original post as Manager of "DSMS".

6.Thus, the writ petitioner cannot claim any right in respect of the post of Manager of "SSMS" as incharge. Incharge position provided on account of certain administrative exigencies, will not constitute any right to the person holding the same. In other words, the persons holding the incharge position, cannot claim any right for continuance or permanency. Thus, the writ petitioner cannot challenge the order of reposting him to his original post as Manager of "DSMS". Secondly, the grievances of the writ petitioner is that the salary attached to the post of Manager of "SSMS" has not been paid.

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7.Thus, this Court is of the opinion that he was not appointed permanently in the post of "SSMS" and he was allowed to continue only as incharge officer. Incharge officers are bound to receive the salary attached to their original post and they cannot claim any excess salary than that of the one applicable to them as per the rules in force. This Court is also of the opinion that the writ petitioner being a contract employee, cannot have any right over the incharge post which he hold temporarily on account of certain administrative exigencies.

8.Under these circumstances, this Court finds that there is no irregularity or infirmity in the order passed by the respondents in the order impugned in this writ petition dated 11.07.2014.

9.Thus, the writ petition is devoid of merits and accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also closed.

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Sd/-
Assistant Registrar(CS V)

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Sub Assistant Registrar

To
1.The Principal Secretary to Government,
Department of Rural Development and Panchayat Raj,
Secretariat,
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Marketing Society, having its Registered Office
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Annai Terasa Women's Complex,
Valluvarkottam High Road,
Nungambakkam, Chennai - 34.

+1cc to Government Pleader Sr.No.86864/17
+1cc to M/s.P.Rajalakshmi, Advocate Sr.No.87590/17

W.P.No.29777 of 2014

DK(CO)
sm:28.12.2017

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