

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2017

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.24165 of 2003

M.Anthony Doss

... Petitioner

Vs.

1. The Secretary,
Grih Kalyan Kendra,
Ministry of Personnel Public Grievances and Pensions,
19, Mahadev Road,
New Delhi-110 001.

2. The Assistant Secretary,
Grih Kalyan Kendra,
Ministry of Personnel Public Grievances and Pensions,
K.K.Nagar Community Centre,
Chennai-600 078.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the second respondent in Ref. No.GKK/MAS/F6(1)/2002-2003 dated 05.02.2003 and quash the same and direct the respondents to reinstate the petitioner in service with all attendant benefits.

For Petitioner : Mr.P.Manoj Kumar

For Respondents : Mr.J.Madhanagopal Rao,
Standing Counsel for Central
Government

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O R D E R

The Writ Petition has been filed to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the second respondent in Ref. No.GKK/MAS/F6(1)/2002-2003 dated 05.02.2003 and quash the same and direct the respondents to reinstate the petitioner in service with all attendant benefits.

2. The brief facts of the case is that the petitioner was appointed as Chowkidar at Grih Kalyan Kendra, K.K.Nagar Chennai, in brevity, hereinafter called as 'GKK '.

GKK is a registered Society under the control of the Ministry of Personnel Public Grievances and Pensions, New Delhi. The petitioner was selected for the above said post with effect from 01.05.1989 and he was insisted to attend night duty in alternative months exchanging duties with his present senior Chowkidar and in the said letter dated 01.05.1989, it is stated that the petitioner was appointed purely on temporary basis on payment of Rs.19/- per day for all working days. In December 2001, the petitioner was drawing a salary of Rs.125/- per day. Thereafter, on 28.12.2001, he submitted a representation to the Assistant Secretary, Grih Kalyan Kendra, K.K.Nagar, Chennai, for regularization of his service and requested for payment of salary on monthly basis. Taking into consideration of his continuous service of twelve years, the petitioner also given an undertaking letter on 24.01.2002 and some of the relevant clauses are extracted hereunder which reads follows:

"i. I undertake to abide, by rules and regulations of the GKK as may be amended from time to time.

ii. I undertake that I shall not indulge in any activity, which may be prejudicial to the interests of the Grih Kalyan Kendra.

iv. I understand that the assignment offered to me is only for a period of one year. However, this is liable to be terminated by GKK at any time, without assigning any reason."

3. While so, after expiry of the period from 24.01.2002, the petitioner was served with disengagement notice order on 05.02.2002 against which, the present writ petition has been filed.

4. The learned counsel appearing for the petitioner would submit that since the petitioner worked continuously for fourteen years, the respondent ought to have take steps to bring him into regular establishment and also his representation dated 28.12.2001 has not been considered by the respondent for regularization of service before issuing disengagement notice. He would further submit that the petitioner was not served with any show cause notice against his service and the respondent, without considering fourteen years of continuous service of the petitioner has unceremoniously issued an disengagement notice, which is not sustainable.

5. Mr.J.Madhanagopal Rao, learned Standing Counsel for Central Government appearing for the respondents would submit that GKK is a registered society and it was a set up in the year 1958 with the objective of helping needy Government servants especially to those people belonging to the lower income group by providing to their dependants opportunity of gainful work so that they might be able to supplement the meagre income of their family and at that time, they may also gain skill and experience in order to pursue a carrier elsewhere.

6. GKK's object was expected to be the stepping stone for the said dependants and there is no intention to proceed with regular employment. In an early occasion, in the year 1984, GKK workers filed a writ petition in W.P.No.13524 of 1984 against the Union of India before the Honourable Supreme Court with the plea that the workers of GKK were being paid less remuneration in comparison with employees of New Delhi Municipal Council, Delhi Administration and other Government Departments for the principle of 'equal pay for equal work' and the same was violated.

7. The relevant portion of the Honourable Supreme Court in W.P.No.13524 of 1984 is extracted as follows :

"the employment in GKK is 'unique' in character, that is to say, it is not comparable with any other employment. Its motivation and genesis coupled with the absence of rules governing service conditions elude even a broad comparison between the employees of GKK and those of other organisations holding somewhat similar posts, bearing similar duties and designations. It is difficult to conceive of any other service in which one can enter at any age, regardless of educational qualification, and from which one can retire when one chooses. It is something like 'come if you like, go when you please."

8. In the present case on hand, there is no dispute regarding the engagement of the service of the petitioner in the order and the undertaking given by the petitioner. On perusal of the order dated 05.02.2002 and as per the class -iv of the undertaking, it is very clear that the engagement of the petitioner in service was only for one year. Hence, the plea raised in this writ petition cannot be granted.

9. In view of the undertaking letter given by the petitioner, I am not inclined to interfere with the order passed by the second respondent.

In the result, the writ petition fails and the accordingly,
the same is dismissed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

gv/gmd

To

1. The Secretary,
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New Delhi-110 001.
2. The Assistant Secretary,
Grih Kalyan Kendra,
Ministry of Personnel Public Grievances and Pensions,
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+1cc to Mr.J.Madanagopal Rao, Advocate, S.R.No.62028

W.P.No.24165 of 2003

PVS (CO)
CA(09/10/2017)

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