



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2017

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

WEB COPY

W.P. (MD) No.6137 of 2015

C.Noble

... Petitioner

-vs-

1.The District Collector,
Kanyakumari District,
at Nagercoil.

2.The President,
Devicode Village Panchayat,
Cheruvallor Post,
Kanyakumari District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ in the nature of Certiorarified Mandamus, calling for the records pursuant to the impugned order passed by the 1st respondent herein in Na.Ka.No.V3/9336/2015 dated 14.03.2015, quash the same as illegal and consequently direct the respondents herein to refix the petitioner's pay on daily wages basis.

For Petitioner : Mr.B.Christopher
For Respondents : Mr.A.K.Baskara Pandian
Spl. Govt. Pleader

O R D E R

The petitioner has come forward with this writ petition, seeking to quash the impugned order dated 14.03.2015 passed by the 1st respondent in Na.Ka.No.V3/9336/2015, by which, it was stated that the appointment of the petitioner as Drinking Water Attendar in the 2nd respondent Panchayat was illegal and violates G.O.No.93, Rural Development and Panchayat Department dated 26.03.1997 and that as per G.O.15 Rural Development and Panchayat (E5) Department dated 07.02.2011, the consolidated pay of the Village Panchayat Part Time Drinking Water Attendar was Rs.2000/- with temporary increase of Rs.40/-. The petitioner also sought a direction to the respondents herein to refix the petitioner's pay on daily wages basis.

2. The case of the petitioner is that he was appointed in the 2nd respondent Panchayat vide order dated 01.06.2001 and his qualification was SSLC fail; that he was given appointment pursuant to donation of his land in Resurvey No.61/22 of Edaicode Village to the 2nd respondent Panchayat to construct a Water Tank having 11 lakh litres capacity under Madathuvilagam Drinking Water Scheme; that he filed W.P.(MD) No.10485 of 2003, seeking regularization of



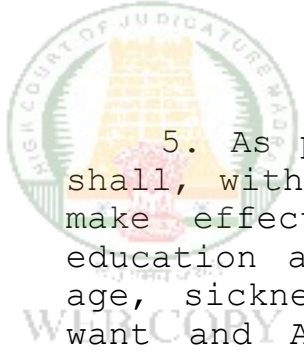
his service, which was disposed of by this Court with a direction to consider his case for regularization; that the petitioner was drawing a sum of Rs.360/- per day and the respondents issued G.O.15 Rural Development and Panchayat (E5) Department dated 07.02.2011 and started paying a consolidated wages at Rs.2000/- with an additional amount of Rs.40/- per day and he had been receiving Rs.360/- per day till February, 2015; that though he had requested not to reduce the daily wages already paid to him, the respondents, vide impugned order, fixed the pay on consolidated basis by citing the Government Order referred to supra. Aggrieved by the same, the petitioner is before this Court.

3. The 1st respondent has filed a counter, wherein it has been stated as under:

i) The petitioner was initially appointed as Part Time Water Supply Attender by the then Village Panchayat President on 01.06.2001, when there was a ban order of fresh appointments for five years; that since his initial appointment of the petitioner itself was irregular and illegal, he is liable to be disengaged from the service; that Devicode Village Panchayat President had failed to obtain prior permission for creating new posts and in terms of G.O.(Ms) No.126 Municipal Administration and Water Supply Department dated 27.05.1999, the Village Panchayat employees were getting daily wages.

ii) It is stated that the petitioner was not initially appointed in Town Panchayats, but appointed only in Village Panchayats and therefore, he is not entitled to daily wages on par with the Water Supply Attenders working in Village Panchayats, which were down graded from Town Panchayats; that Water Supply Attenders appointed in Village Panchayats, like the petitioner are entitled to get consolidated pay only and their pays are also being enhanced from time to time; that since there was a demand for increase of pay, based on the recommendation of the Committee, constituted by the Government, it was decided to enhance the consolidated pay of Water Supply Attenders to Rs.2000/- per month with effect from 01.01.2011 with adhoc increase of Rs.40/- and that the petitioner, without challenging the Government Order has filed this writ petition seeking to pay daily wages and therefore, this writ petition is liable to be dismissed.

4. Admittedly, the petitioner was drawing daily wages upto February, 2015 and subsequently, the Government has decided to pay wages on consolidated basis to the employees appointed as the Water Supply Attenders in Village Panchayats. From the records, it is clear that the petitioner was not given any notice before revision of pay and the payment of Rs.2000/- per month cannot, at any stretch of imagination, be equated to the minimum wages. Since the petitioner was getting daily wages till February, 2015, the benefit of the same shall be extended till a notice is given. It is seen that the consolidated pay fixed is far below the minimum wage that may be applicable to any of the Class-IV employees. It is also very unfortunate that even after orders of this Court, the case for regularization has not been considered.



5. As per Article 41 of the Constitution of India, the State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want and Article 43 states that the State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities.

6. Of course, it is true that the impugned order passed by the 1st respondent cannot be interfered with, because they have acted as per the Government Order and as rightly pointed out by them, the Government Order has also not been challenged. At the same time, it cannot be denied that fixation of Rs.2000/- per month is unfair and no employee can be expected to lead a decent life with the said amount. In all fairness, the Government should have taken note of the cost of living and ensure that the employee and his family are citizens of this country. Therefore, this Court expects that the earlier pay of the employee shall be restored and the State shall act as a model employer, keeping in mind the provisions of Article 43 of the Constitution of India.

7. With the above observation, this Writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-I)

/TRUE COPY/

Sub Assistant Registrar

To:

- 1.The District Collector,
Kanyakumari District,
at Nagercoil.
- 2.The President,
Devicode Village Panchayat,
Cheruvallor Post,
Kanyakumari District.

+1 cc to M/R.B.CHRISTOPHER, Advocate, SR.No.8604

+1 cc to M/S.SPECIAL GOVERNMENT PLEADER, SR.NO:8643

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