

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2018

CORAM:

THE HONOURABLE MRS.JUSTICE V. BHAVANI SUBBAROYAN

W.P.No.11196 of 2008

T.Sivanantham

..

Petitioner

Vs

1.The Director of Agriculture,
Chennai 600 005.

2.The Assistant Director of Agriculture,
Thiruvudaimaruthur,Thanjavur District.

3.The Agricultural Chemist,
Soil Testing Laboratory,
Aduthurai, Thanjavur District.

.. Respondents

Prayer:- Writ Petition has been filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the first respondent in A.U.Pa.162255/2006 dated 21.11.2007 and quash the same and directing the respondents to regularize the petitioner's services in accordance with G.O.Ms.No.22, P & AR (F) Department dated 28.02.2006 and grant all consequential benefits.

For Petitioner : Mr.P.Rajendran

For Respondents : M/S. Thangavadhana Balakrishnan
Additional Government Pleader

for R1 and R2

No appearance for R3

ORDER

The Writ Petition has been filed for issuance of Certiorarified Mandamus to call the records relating to the impugned order of the first respondent in A.U.Pa.162255/2006 dated 21.11.2007 and further direct the respondents to regularise the petitioner's services in accordance with G.O.Ms.No.22, P & AR (F) Department dated 28.02.2006 and grant all consequential benefits to the petitioner.

2. The case of the petitioner is that, he was working as a Daily Rated Employee at the Office of the Agricultural Chemist, Soil Testing Laboratory, Aduthurai, Thanjavur District. He was appointed on 05.01.1996 and his name has been entered in the muster rolls as Sivanantham, but some times written as Muruganandam. Further, he had no other option to sign the register, since he has to get wages as directed by the superiors, otherwise he will loose the job and remain unemployed and he has been employed still only as a Daily Rated Employee.

3. The learned counsel for the petitioner submits that as per G.O.Ms.No.22 P & AR(F) Department dated 28.02.2006, directing that the daily wages employees who have been put in 10 years of service and working in all Government Departments be regularized by appointing them in the time scale of pay of the post in accordance with the service conditions prescribed for the said post concerned. Based on the Government Order, several daily wages employees in various departments have been regularized and they have been given the benefit of time scale of pay. Since, the petitioner also comes under the G.O and eligible, he approached the Director of Agriculture, Chennai 600 005 (the first respondent herein) by sending a representation dated 21.09.2006, but no such order was passed for the said representation. Hence, he had approached this Hon'ble Court and filed W.P.No.46311 of 2006 and prayed for considering the said representation and this Hon'ble Court also passed a final order on 29.11.2006 and directed the first respondent to consider his said representation, within a period of eight weeks from the date of receipt of a copy of the order. The first respondent after considering the said representation has passed the impugned order dated 21.11.2007, rejecting his claim of regularization. The petitioner would contend that since he has put in service more than 12 years and sometimes his name has been written as Muruganadanm, he also prays that, his service should be taken into account and he should be regularized. It is a specific case of the petitioner that, his name used to be written differently as Muruganandam and Sivanandham and he has been signing the same and he also filed the Bill Numbers from, 1996 to 2006 to show that he has worked for more than 10 years.

4. The counter has been filed by the first respondent namely the Commissioner of Agriculture, wherein, it has been stated that the petitioner being a Causal Labourer on a daily basis, as per the records, one T.Muruganandam also working in the said office. The Casual Labourers are engaged for working in the Soil Testing Laboratory as per the need and engaged on rotational basis. The continuity of service is not at all possible, because they are engaged only when there is work and the petitioner's contention that he has put in 10 years of

service is denied. He has been engaged as daily rated employee since on 5.01.1996 onwards and they would submit on 01.01.2006 he has not completed 10 years of service. The petitioner's representation to regularize his service cannot be complied with and he would further submit that, as per the rules and directions given in G.O.Ms.No.22, the petitioner is not qualified and his claim can not be complied with. He would also further submit that, the Casual Labourers are engaged to manual work and the jobs are temporary jobs. They were not given any appointment orders, whenever there is a work, they will be engaged on daily basis as a Casual Labourers. The continuity of service is not possible at all and they will not be engaged regularly, when there is no work and the petitioner also used to abstain himself without any notice. His job is to drying, powdering and sieving the soil samples received for analysis and the casual labourers are engaged on rotational basis. The muster roll and the vouchers for the payment of daily wages would amply prove that different persons were engaged as Casual Labourers. The allegation that, the petitioner was made to sign in different names on intervention of superior is specifically denied by the respondents. Since he has not completed his 10 years of service as on 01.01.2006, the petitioner's claim was not considered.

5. This Court, while dealing with the similar prayer in a batch of Writ Petitions in W.P.Nos.13673 to 13677 of 2007 decided the issue on 15.03.2011 and had dismissed the Writ Petition. From the records, it is made clear that, the petitioners therein are working as Casual Labourers i.e., only as helpers to assist the Agriculture Chemist in Soil Testing of various samples received and to proportionate them for testing. The Casual Labourers are assisting the Soil Testing Laboratory in analogical works and their work is only to dry, powder and sieve the soil samples which are collected by the Assistant Agricultural Officers and send the same to the Soil Testing Laboratory. The analogical soil samples are numbered and records are maintained by the Assistant Agricultural Officers working in the Soil Testing Laboratory and there is no casual Labourers involved in such type of work. Therefore, the Agricultural Officer are doing the said work and only when there is any need, they would call for the said Casual Labourers and the casual labourers are engaged only on availability of the work, which varies from year to year, and hence, they cannot be granted conferment of permanent status of workmen.

6. From the perusal of records, it is clear that, the soil Testing Laboratory does testing work only when they requested for doing so. Hence in the absence of any sanction post, the regularization of the Casual Labourers will not arise and the petitioner has not proved that he

has been working there continuously since as on the said date, he has not put in 10 years of service. The petitioner's claim that he was engaged to do so many other works and he has signing in some other name in the Attendance Register, which are disputed facts and cannot be adjudicated in the proceedings under Article 226 of the Constitution of India, and no materials have been produced by the petitioner, than the averments before this Court, in support of the case of the petitioner herein. When there is a dispute mere averments would not be sufficient to prove the claim of the petitioner. Hence in the absence of any supporting materials to substantiate that the petitioner is entitled for regularization as per G.O.Ms.No.2, the Writ Petition fails and the same is dismissed. No Costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vji/nsd

To

- 1.The Director of Agriculture,
Chennai 600 005.
- 2.The Assistant Director of Agriculture,
Thiruvudaimaruthur,
Thanjavur District.

+1 CC TO GOVERNMENT PLEADER SR.NO.76813

+1cc to Mr.P.Rajendran , Advocate SR.No. 7661

सत्यमेव जयते

W.P.No.11196 of 2008

A.SK(05/03/2019)

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