

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.9.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.A.No.2071 of 2018
and
C.M.P.No.16324 of 2018

1. The Chairman,
Tamilnadu Slum Clearance Board,
No.5, Kamaraj Salai, Triplicane,
Chennai 600 005.
 2. The Secretary,
Tamilnadu Slum Clearance Board,
No.5, Kamaraj Salai, Triplicane,
Chennai 600 005.
- Appellants/ petitioners

Versus

C.S.Suresh Babu Respondent/ petitioner

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 13.7.2017 passed in W.P.No.11008 of 2013 on the file of this court.

W.P.No.11008 of 2013:

Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus Directing the Second Respondent to regularize the service of the Petitioner as Driver.

For appellant : Mr.M.Rajashekar
For respondent : Mr.M.L.Ramesh

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the appellants and Mr.M.L.Ramesh, learned counsel, who takes notice on behalf of the respondent.

2. The writ appeal has been filed by the Tamil Nadu Slum Clearance Board challenging the order passed by the learned Single Judge directing the appellants to regularise the services of the writ petitioner from the date of his initial appointment in 2003 with consequential and attendant benefits.

3. It appears that initially, the petitioner was appointed during 2003 as Driver on a daily wage basis and subsequently, he was brought on to consolidated monthly salary and contending that for more than 13 years he had been serving in the said capacity, he sought for regularisation of his services.

4. The learned Single Judge ordered for regularisation from the date of his initial appointment and directed to extend all monetary benefits against which the present writ appeal has been filed.

5. Having heard the learned counsel appearing for the parties and perused the materials available on record, we find that the employment of the writ petitioner was not by way of direct selection and he did not go through any proper selection process which is highly deprecated by the Apex Court in STATE OF KARNATAKA AND OTHERS v. UMA DEVI AND OTHERS ((2006) 4 SCC 1) and reiterated by a Division Bench of Apex Court in SECRETARY TO GOVERNMENT, SCHOOL EDUCATION DEPARTMENT, CHENAI v. R.GOVINDASWAMY AND OTHERS ((2014) 4 SCC 769).

6. In view of the principles settled in the above decisions, regularisation or permanent absorption cannot be granted contrary to the recruitment rules in force and without any selection process. Therefore, we are of the view that the order passed by the learned Single Judge is totally against the settled principles.

7. Further, it is seen that the writ petitioner was employed only on ad hoc basis for about 13 years without any assurance of regularisation. Therefore, it is for the Department to notify the vacancy within a stipulated time and in such event, it is open to the writ petitioner to participate in the selection process and in such selection process, he shall be given some weightage considering the ad hoc service he had put in for 13 years. The order passed by the learned single Judge is modified to that extent. However, it is made clear that till such selection process, the service of the appellant shall not be terminated. The writ appeal is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS vii)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. The Chairman,
Tamilnadu Slum Clearance Board,
No.5, Kamaraj Salai, Triplicane,
Chennai 600 005.

2. The Secretary,
Tamilnadu Slum Clearance Board,
No.5, Kamaraj Salai, Triplicane,
Chennai 600 005.

+1cc to Mr.M.Rajashekar , Advocate SR.No. 65718

+1cc to Mr.M.L.Ramesh , Advocate SR.No. 65696

W.A.No.2071 of 2018

ASK(08/11/2018)



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