

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2018

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.7852 of 2008

K. Raj

... Petitioner

Vs.

1. State Rep. by its,
Secretary to Government,
Municipal Administration and
Water Supply Department,
Fort St.George,
Chennai - 600 009.
2. The Commissioner,
Corporation of Madras
Rippon Building,
Park Town, Chennai - 600 003.
3. V.Rajacholan
4. V.Gunasekaran, Respondents

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent relating to G.O.Ms.No.46 dated 24.03.2008 and quash the same, insofar as it includes the 3rd and 4th respondents and consequently, direct the 1st respondent to include the petitioner's name in the Annexure to the G.O.Ms.No.46 dated 24.03.2008 passed by the 1st respondent and to regurarize the petitioner's services as Technical Asst. Grade II with all service benefits.

For Petitioner : Mr.M.Gnanasekar

For Respondents : Mrs.Thangavadhana Balakrishnan
Additional Government Pleader
For R1

Mrs.Karthika Ashok
For R2

Mr.B.Singaravelan
For R3 & R4

O R D E R

This Writ Petition has been filed to call for the records of the 1st respondent relating to G.O.Ms.No.46 dated 24.03.2008 and to quash the same, insofar as it includes the 3rd and 4th respondents and consequently, to direct the 1st respondent to include the petitioner's name in the Annexure to the G.O.Ms.No.46 dated 24.03.2008 passed by the 1st respondent and to regularize the petitioner's services as Technical Asst. Grade II with all service benefits.

2. The case of the petitioner is that he was appointed as Daily Rated Technical Assistant Grade II from 04.10.1995 and was working in Division IV of the Corporation of Chennai. The Government has issued G.O.Ms.No.11 dated 13.01.2006 to regularize the daily rated workers who have completed 10 years of service and appointed based on the sponsorship by the Employment Exchange. The further condition which has been given in the said G.O is that the year in which, the employee completed 240 days would be counted as the starting year and persons should have worked for 2400 days or more within 10 years.

3. As per the said G.O, ten persons, who were not appointed through Employment Exchange, put in 10 years continuous service were ordered to be regularised by making the Rules. Thereafter, the 2nd respondent has issued a Circular dated 10.04.2007, wherein, details of 274 persons as on 01.07.2006 were directed to be furnished in Form I. The petitioner had worked for 10 years from 1996 to 2005, thereby, he has completed more than 2400 days in 10 years of service. Despite the same, his name was not included by the 2nd respondent in Annexure-I, while sending the details, by letter dated 10.01.2007, containing the names of persons who have completed 10 years of service and worked for more than 2400 days. Thereafter, the petitioner's name was included at SL.No.30 in Annexure -II, which consists of persons who have not completed 2400 days.

4. The petitioner would further contend that nearly 12 persons who have similarly placed like the petitioner, have approached the 2nd respondent for inclusion of their names and subsequently, their names were also included in Annexure-I. Hence, the petitioner has sent a representation to the second respondent on 18.01.2007 to include his name in Annexure-I and to regularize his services. Thereafter, the petitioner came to know that the particulars were called for regarding the number of days he has worked, and the same has been furnished by the concerned officials.

5. The petitioner would also contend that he has sent representations to the 2nd respondent on 30.10.2007 and 26.02.2008, and also sent representation to the 1st respondent on 26.10.2007, to which, he has not received any reply from the respondents so far. Hence, he filed W.P.No.5387 of 2008 before this Court seeking a direction, directing the second respondent to include his name in Annexure-I to the letter No.E12/4199/2002, dated 10.01.2007 of the second respondent, for regularization of the temporary Technical Assistant Grade-II, consequently, regularize his services as Technical Assistant Grade-II with all service benefits. This Court, by order dated 03.03.2008, had directed the respondents to consider the representation of the petitioner dated 26.02.2008 on merits within a period of 6 weeks. However, the respondents, instead of considering the representation, have issued G.O.Ms.No.46 dated 24.03.2008, wherein, 48 persons were included in the list of eligible candidates and in the place of the petitioner, the third respondent name was included, who is junior to the petitioner. Further, the 4th respondent name, who has not even completed 2400 days in the 10th year, was included in the said G.O. at Sl.No.42. Therefore, the present Writ Petition has been filed by the petitioner challenging the order passed by the first respondent in G.O.Ms.No.46 dated 24.03.2008.

6. It could be seen from the counter affidavit filed on behalf of Corporation of Chennai that Technical Assistants were engaged by the Executive Engineers/Zonal Officers on need basis and they were paid from the Work Charged Establishment Funds and not from the Corporation funds. Further, the Technical Assistants are in three categories viz. Grade-I, Grade-II and Grade-III. The Graduate Technical Assistants are Grade-I, Diploma Holders are Grade-II and those possessing ITI Certificate are Grade-III. It has been further stated in the respondents' counter that there is no sanctioned post of Technical Assistants in the Corporation of Chennai and they were working only on temporary basis for 89 days and thereafter, they were removed and re-engaged until the completion of the work, and none of the Technical Assistants were recruited through the Employment Exchange.

7. It is further seen from the affidavit filed by the respondent that as per G.O.Ms.No.22 dated 28.06.2006, it has been ordered to regularize the services of Temporary Technical Assistants who have worked for 2400 days in 10 years time as on 01.01.2006. Further, apart from the list furnished by the Zones and Departments, a list was prepared with the names of the persons who had worked for 2400 days in 10 years time as on 01.01.2006 and which was recommended to the Government for regularization of their services. The Government issued G.O.Ms.No.46, Municipal Administration and Water Supply (MCIII)

Department, dated 24.03.2008 regularizing the services of 48 temporary Technical Assistants and hence, the petitioner has filed this Writ Petition to include his name in the above list of 48 Technical Assistants.

8. Furthermore, It is seen from the respondents' counter that even though the petitioner's name was not included in the first list of 48 Technical Assistants, his name was included in the second list of 59 Technical Assistants and his services have also been regularized as Technical Assistant. Further, he has also been promoted as Junior Engineer (Civil) with effect from 18.02.2012.

9. In view of the above, since the respondents have considered the case of the petitioner, and the petitioner's services have been regularized and on completion of his probation in the year 2011 as Technical Assistant, the petitioner has been promoted as Junior Engineer (Civil) and absorbed in permanent vacancy with effect from 18.02.2012, the Writ Petition is disposed of, No Costs.

-s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

raja
To

1. The Secretary to Government,
Municipal Administration and
Water Supply Department,
Fort St. George,
Chennai - 600 009.

2. The Commissioner,
Corporation of Madras
Rippon Building, Park Town,
Chennai - 600 003.

+1 CC to Mr.A. Karthik Ashok, Advocate sr 36693.
+1 CC to Govt. Pleader sr 37016.
+1 CC to Mr.M. Gunasekar, Advocate sr 36566

W.P.No.7852 of 2008

KJI (CO)
SP(17/07/2018)