

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.286 of 2018 and  
WMP.No.343/2018

B.Suman

.. Petitioner

-vs-

1. The Principal Secretary to Government,  
Animal Husbandry, Dairying and Fisheries  
(FS2) Department, Secretariat,  
Chennai-9.
2. The Commissioner of Fisheries,  
Fisheries Department,  
DMS Campus,  
Teynampet, Chennai-6.
3. The Executive Engineer,  
Tsunami Project Implementation Unit,  
Nandanam, Chennai-35.
4. The Chief Engineer,  
O/o.The Commissioner of Fisheries,  
Fisheries Department,  
DMS Campus, Teynampet,  
Chennai-6.

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to call for the records pertaining to the Proceedings of the 3<sup>rd</sup> respondent in Na.Ka.No.454/Su.Thi.Se.A/B/2015 dated 04.12.2017 and quash the same as illegal, incompetent and ultravires and consequently, direct the respondents to absorb the petitioner in the post of Technical Assistant.

For Petitioner :: Mr.R.Jayaprakash

For Respondents:: Mr.V.Jayaprakash Narayanan,  
Special Government Pleader

ORDER

Questioning the correctness of the order passed by the 3<sup>rd</sup> respondent dated 4.12.2017 by which the request for regularisation/absorption of the petitioner was rejected, the present Writ Petition has been filed.

2. Learned Counsel for the petitioner submitted that the petitioner was selected for appointment to the post of Technical Assistant by the 2<sup>nd</sup> respondent, namely, the Commissioner of Fisheries, Chennai, on contract basis under the Tsunami Project Implementation Unit through his Proceedings dated 23.02.2016. Having joined the said post on 23.02.2016 at Nagapattinam, he has been rendering his service to the satisfaction of the engineers in the field at construction of Diaphragm Wall, Net Mending Shed and Dredging, Fish Ponds etc. and he is also assisting them in the preparation of plans and estimates etc. While so, the 4<sup>th</sup> respondent has issued a Notification dated 14.07.2016 calling for applications from the eligible candidates to the post of Technical Assistant by direct recruitment. The learned Counsel for the petitioner further submitted that the respondents, merely, on the basis of the order of appointment dated 23.02.2016 appointing him on contract basis cannot indefinitely refuse to regularise and absorb him in service. When the project is definite for a long time, the petitioner, who was appointed on contract basis, is also entitled to be continued. Therefore, the petitioner has given a detailed representation to absorb him in the vacant post of Technical Assistant on 25.11.2017 to the Director of Fisheries, Tsunami Project Implementation Union, Nandanam, Chennai, but, the same has been rejected by the 3<sup>rd</sup> respondent herein by Proceedings dated 4.12.2017 on the ground that the service of the petitioner is purely temporary and on contractual basis which can neither be extended nor regularised which has been clearly mentioned in the appointment order of the petitioner dated 23.02.2016. The learned Counsel for the petitioner also submitted that in similar circumstances, when similarly placed persons came to this Court, a Division Bench of this Court by order dated 06.11.2017 passed in W.A.Nos.1177 and 1178/2017 issued directions to the respondents therein to consider their candidatures on merits and take a decision in accordance with law for their continuance. Therefore, the learned Counsel requests this Court to pass a similar order in this case also.

3. Heard the learned Special Government Pleader appearing for the respondents.

4. This Court is unable to accept the case of the petitioner for two reasons. Firstly, the Division Bench of this Court in paragraph 10 of the judgment rendered in W.A.Nos.1177 and 1178/2017 dated 4.12.2017, has held that these persons were appointed pursuant to an advertisement and they have also been paid consolidated salary and the scheme is only for a certain period and therefore, they cannot insist for regularisation. Secondly, though taking note of the continuous long service rendered by the petitioners therein from 2013, the Division Bench of this Court issued a direction to consider their candidatures on merits and take a decision in accordance with law for their continuance, but, in the present case, the petitioner was appointed only on contract basis by order dated

23.02.2016 and he has served only one year. Therefore, the petitioner cannot seek a similar direction to absorb him in the post of Technical Assistant.

5. In view of all the above, the Writ Petition fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary to Government,  
Animal Husbandry, Dairying and Fisheries  
(FS2) Department, Secretariat,  
Chennai-9.
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O/o.The Commissioner of Fisheries,  
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DMS Campus, Teynampet,  
Chennai-6.

+1cc to MR.R.Jayaprakash, Advocate Sr.NO.1367

sm:24.1.2018

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