

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2018

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.774 of 2013

K.Pugazhendhee

..Appellant

Vs.

1.The Secretary to Government,
Housing & Urban Development,
Secretariat, Chennai.

2.The Managing Director,
Tamil Nadu Housing Board,
Anna Salai, Nandhanam,
Chennai.

3.The Executive Engineer,
TamilNadu Housing Board, Vellore.

..Respondents

Prayer: Writ Appeal filed under Clause 15 of Letter Patent Act, to set aside the order in W.P.No.17202 of 2012 dated 17.09.2012 and allow the above writ appeal and grant such other further reliefs as deems fit and proper to this Court under the circumstances of the case.

WP.No.17202 of 2012:Writ petition filed under Art 226 of the Consitution of India praying for a writ of certiorarified mandamus to call for file Housing Board Letter No.Pa.Tho.Nu.3/54830/2007 dated 10.5.2012 from the file of 3rd respondent and quash the same and directing the respondents to reinstate the petitioner with regularization of service of petitioner.

For Appellant : Mr.P.Ganapathy

For Respondents : Mr.V.Anandhamurthy
Additional Government Pleader

O R D E R

The appellant was earlier employed in the Tamil Nadu Housing Board as a Technical Assistant. The engagement was on daily

wages. The engagement was subsequently terminated by the Tamil Nadu Housing Board. The appellant along with other daily wage employees challenged the termination in W.P.No.18480 of 2003.

2.The learned Single Judge while declining to grant the direction for regularization, protected the interest of the appellant and other employees by directing the Housing Board not to terminate their services unless there is surplus staff in the relevant category. The said order was challenged before the Division Bench in Writ Appeal Nos.4022 to 4024 of 2003. There was no interim direction given by the Division Bench to protect the employment of the appellant and other employees. The Government thereafter issued an order dated 28.02.2006 in G.O.Ms.No.22 Personnel and Administrative Reforms (F) Department, in and by which the Government directed all the departments to regularise the services of the daily wage employees working in the Departments who have completed 10 years of service as on 01.01.2006.

3.The appellant claiming the benefits of the said Government Order submitted a representation to the Tamil Nadu Housing Board. The Housing Board rejected the request for appointment. The said order was challenged before the Writ Court in W.P.No.17202 of 2012.

4.The learned single Judge found that the appellant was not in service after 2003. The learned Judge was of the view that the appellant was not in service as on 01.01.2006 and as such he is not entitled to the benefit of Government order. The Writ Petition was accordingly dismissed. Feeling aggrieved, the appellant has come up with this intra court appeal.

5.The learned counsel for the appellant submitted that the appellant would be satisfied in case a direction is issued to the Tamil Nadu Housing Board to consider the claim for appointment on the strength of the recommendation made by the Executive Engineer and Administrative Officer, Tamil Nadu Housing Board, Vellore.

6.The learned Standing counsel for the Tamil Nadu Housing Board while justifying the order passed by the learned single Judge submitted that a decision was taken by the Housing Board not to engage the services of those who were terminated earlier.

7.There is no dispute that the appellant was out of employment after 04.07.2003. The appellant claimed employment and regularization only after the issuance of G.O.Ms.No.22 Personnel and Administrative Reforms (F) Department. The said Government order contain a clear indication that the employee

who have been in service as on 01.01.2006 alone will be regularized. It is not the case of the appellant that he was in service as on 01.01.2006. The appellant made a claim that the Housing Board was not correct in terminating his services, in spite of the order passed by the single Judge. However, the fact remains that the appellant was not in service after 2003. The learned Single Judge was therefore correct in dismissing the writ petition.

8.The learned counsel for the appellant maintained that the recommendation made by the Executive Engineer and Administrative Officer, Tamil Nadu Housing Board, Vellore to reappoint the appellant is still pending before the Tamil Nadu Housing Board. The said contention is refuted by the learned counsel for the Tamil Nadu Housing Board.

9. We make it clear that in case the recommendation made by the Executive Engineer and Administrative Officer, Tamil Nadu Housing Board for appointment of the appellant is pending before the Tamil Nadu Housing Board, this order would not stand in the way for taking a decision in the matter.

10. This intra Court appeal is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

arr/stm
To

1.The Secretary to Government,
Housing & Urban Development,
Secretariat, Chennai.

2.The Managing Director,
Tamil Nadu Housing Board,
Anna Salai, Nandhanam,
Chennai.

3.The Executive Engineer,
TamilNadu Housing Board, Vellore.

+1cc to Mr.V.Anandhamurthy, Advocate Sr.No.6134

KS(CO)
sm:15.2.2018

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