

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2019

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.11244 of 2011

and

M.P.No.1 of 2011

T.Karmegam

...Petitioner

Vs.

District Project Manager
District Vazhndhu Kattvom Thittam
V.K.D.S.Thiruvallur
No.46, Avadi Bypass Road
Thiruvallur 602 001

....Respondent

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the District Project Manager, Thiruvallur, the Respondent herein, pertaining to his proceedings dated 02.03.2011 made in R.C.No.13/VKP-A1/2011 and quash the same and further direct the respondent to reinstate the petitioner in his position as Team Leader with all benefits.

For Petitioner : Mr.A.Lakshminarasimhan

For Respondent : Mr.K.S.Suresh, G.A.

O R D E R

This petition has been filed by the petitioner to call for the records of the District Project Manager, Thiruvallur, the Respondent herein, pertaining to his proceedings dated 02.03.2011 made in R.C.No.13/VKP-A1/2011 and quash the same and further direct the respondent to reinstate the petitioner in his position as Team Leader with all benefits.

2.The writ petitioner submitted that he was appointed for the post of Facilitator by the respondent and joined duty at Ellapuram Block, Thiruvallur District. The petitioner was asked to execute a contract for a period of two years subject to the renewal of the contract in every two years. In the meantime, the

petitioner was terminated from the service. Aggrieved by the said termination order, the petitioner has preferred this present Writ Petition.

3.The counter filed by the respondent states as follows:

"6.With reference to the averments made in para 3 and 4 of the affidavit it is submitted that the Project has a fixed tenure to complete its mission and the filed functionaries needed by it are employed in contract. The contract is for 2 years. The petitioner wa also employed on contract. The contract of his employment as Facilitator was from 10.07.2008 to 09.07.2010. His further continuance on contract was dependent on his performance as could be seen from the following clause in the contract:

"3.The position offered to you is an contract for a period not extending two years from 10.07.2008 to 09.07.2010. Upon expiration of the contract, the DVKP would review your performances during the contract period and may extend the contract for a further period if your services during this period have been satisfactory. If your performance within the contract period proves to be unsatisfactory, the contract will be terminated before it runs its course. In other words, this termination is on grounds of inefficiency. This can be done without resorting to the procedure prescribed under clause 7.

6.This appointment can be terminated by the VKDS by giving you one month's notice in writing or payment of the one month's remuneration in lieu thereof. You may also terminate this contract by giving one month's notice in writing or by payment of one month's remuneration in lieu thereof."

4.In this connection, the respondent also relied upon the decision of the Hon'ble Supreme Court in Nandganj Sihori Sugar Co. Ltd., Rae Bareli Vs. Badri Nath Dixit [(1991) 3 SCC54] which has been followed by the Hon'ble Supreme Court in Integrated Rural Development Agency Vs. Ram Pyare Pandey[(1995) Supp (2) SCC 495]:

A contract of employment cannot ordinarily be enforced by or against an employer. The remedy is to sue for damages, (See Section 14 read with Section 41 of the Specific Relief Act, see Indian Contract and Specific Relief Acts by Pollock and Mulla, 10th Edn., page 983). The grant of specific performance is purely discretionary and must be refused when not warranted by the ends of justice. Such relief can be

granted only on sound legal principles. In the absence of any statutory requirement, courts do not ordinarily force an employer to recruit or retain in service an employee not required by the employer".

5.The respondent also relied upon the decision of the Hon'ble Supreme Court of India in State of Karnataka Vs. Umadevi (3) [2006] 4 SCC 1] as follows:

In W.P.No.26793 of 2009 & W.P.No.9505 of 2011 and M.P.No.1 of 2009 (1.Thiru A.Donbosco & 2 C.Amal Raj filed case against the Project Director, Vaazhndhu Kaattuvom Project, Chennai & District Project Manager, Vaazhndhu Kattuvom Project, Thiruvallur. In this case, the performances of the petitioners are rated poor. Further, instead of notice, they were given one month salary which is not disputed and above all these things the work is purely contractual in nature and the same cannot be questioned in this writ petition. These writ petitions are not sustainable and hence, I do not find any reason to interfere with the order impugned. Hence, these writ petitions are dismissed. No Costs.

6.In the light of the above decision, the respondent submitted that the "contractual appointment comes to an end at the end of the contract, an appointment on daily wages or casual basis comes to an end when it is discontinued, and a temporary appointment comes to an end on the expiry of its term - No employees so appointed can claim to be made permanent on the expiry of their appointments".

7.Considering the aforesaid submissions and as well as the decision rendered by the Hon'ble Supreme Court, this court finds that the writ petitioner is not entitled for the relief as sought for and there is no merit in this case, warranting interference of this Court. Hence, this petition is liable to be dismissed for devoid of merits.

8.This Writ Petition stands dismissed accordingly. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

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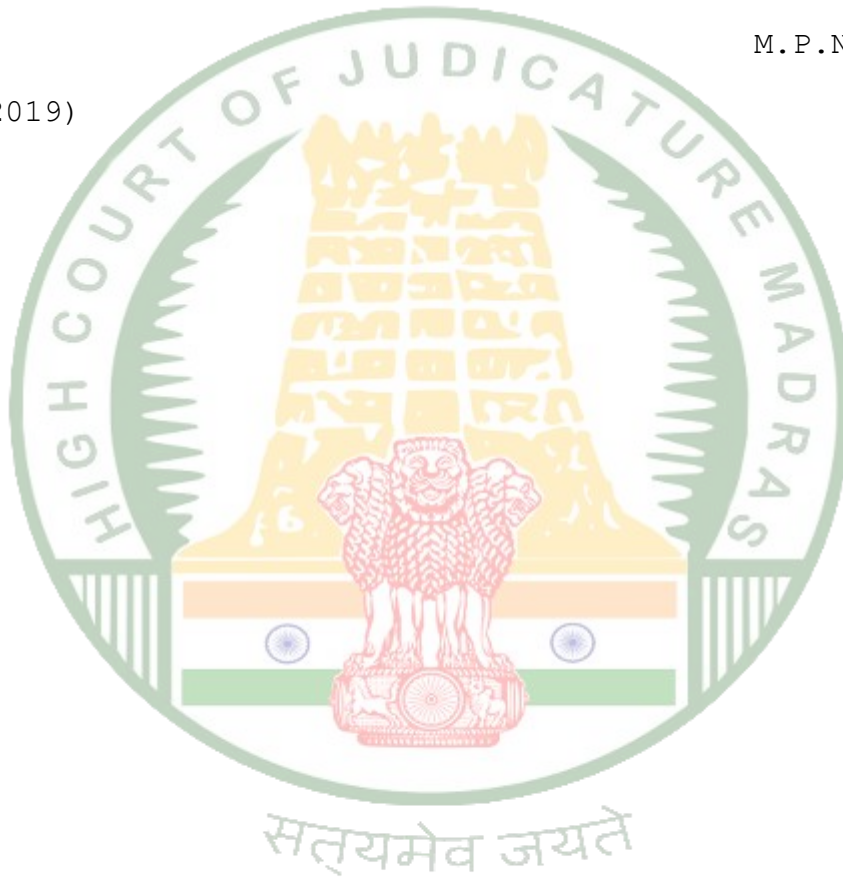
To.

District Project Manager
District Vazhndhu Kattvom Thittam
V.K.D.S.Thiruvallur
No.46, Avadi Bypass Road
Thiruvallur 602 001.

+1cc to the Government Pleader SR.92538

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and
M.P.No.1 of 2011

SJ(CO)
CB(11/12/2019)



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