

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.12436 of 2010

P.Sivakumar

.. Petitioner

Vs

1.The Secretary to Government
Rural Development and Panchayat Raj Department
Fort.St.George, Chennai-600 009

2.The District Collector
Salem District, Salem

3.The General Manager
Tamil Nadu Ex-Servicemen Corporation Ltd.,
(TEXCO) 2, West Mada Street, Saidapet
Chennai-600 015

.. Respondents

Prayer:- This Writ Petition is filed, under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records of the 1st respondent in Letter No.4389/C5/08-5, dated 21.12.2009 and the consequent order passed by the second respondent issued in Na.Ka.No.42098/2006/Ni-3, dated 31.12.2009 and to quash the same and direct the respondents to reinstate the petitioner into service and to regularize them in the post of Jeep Driver with all consequential and attendant benefits.

For Petitioner : Mr.A.Sriram for Mr.R.N.Amarnath

For Respondents : Mr.B.Anand,
Government Advocate for R1 and R2
No appearance for R3.

ORDER

The petitioner is an Ex-Serviceman, whose name has been registered in the Tamil Nadu Ex-Servicemen Corporation Ltd., (TEXCO). He has been appointed as driver in the Department of Small Savings by order of appointment dated 04.10.2005. By notice dated 11.01.2008, the second respondent relieved the petitioner from the service of driver with effect from 13.02.2008.

2. Thereafter, the petitioner along with similarly placed persons filed W.P.Nos.4421 and 3584 of 2008 challenging the order dated 11.01.2008. This court, by order dated 10.08.2009, disposed of the said writ petition granting liberty to the petitioners to approach the first respondent-District Collector, Salem District, for ventilating their grievance and also directed the first respondent to pass appropriate orders on the representation of the petitioners.

3. Thereafter, by letter dated 21.12.2009, the first respondent rejected the representation of the petitioner stating that the appointment of the petitioner to the post of Driver is based on outsourcing through TEXCO and therefore, his request for Permanent absorption as Driver cannot be accepted.

4. The second respondent, by order dated 31.12.2009, relieved the petitioner from service on 31.12.2009. Challenging the above orders, the petitioner is before this court.

5. In the counter affidavit filed by the 2nd respondent, it is stated that the petitioner is well aware of the fact even before his engagement as Jeep Driver, the said job is purely on temporary basis and hence the petitioner has no legal right to claim for permanent absorption. It is further stated that vide Government Letter dated 21.12.2009, the claim of the petitioner was rejected as he was engaged through Tamil Nadu Ex-Servicemen's Corporation Limited only on temporary basis under outsourcing method and he was paid wages through the Tamil Nadu Ex-Servicemen's Corporation Limited and hence his claim for appointment on permanent basis cannot be entertained. Subsequently, the petitioner was discontinued from his employment by proceedings of the Collector, Salem District, in Roc.No.42098/2006/Ni.3 dated 31.12.2009 and he was served with the orders of termination of his service on 01.01.2010.

6. In view of the above stand taken by the 2nd respondent in their counter, this court is of the considered view that there is no merits in the writ petition to grant any relief to the petitioner. Accordingly, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

nvsri

To

1.The Secretary to Government
Rural Development and Panchayat Raj Department
Fort.St.George, Chennai-600 009.

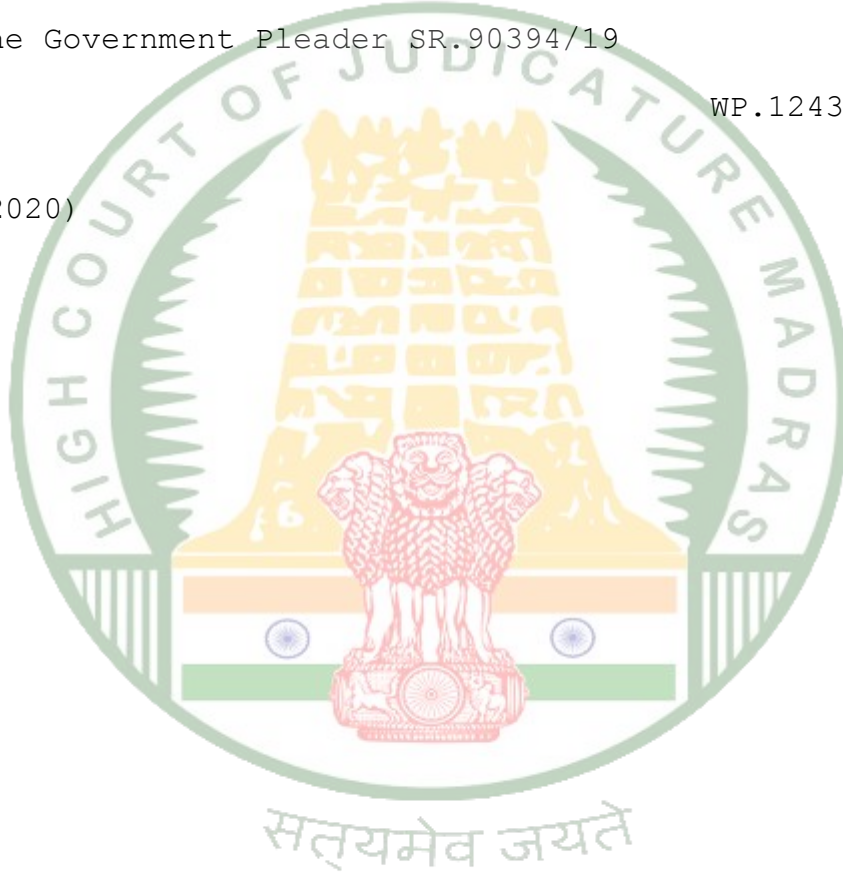
2.The District Collector,
Salem District, Salem.

3.The General Manager,
Tamil Nadu Ex-Servicemen Corporation Ltd.,
(TEXCO) 2, West Mada Street, Saidapet
Chennai-600 015.

+lcc to the Government Pleader SR.90394/19

WP.12436 of 2010

AK(CO)
CB(20/01/2020)



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