

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2019

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.27601 of 2008

Mr.B.Arumugam

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Petitioner

-vs-

1. The Regional Executive Director
Southern Region
Airports Authority of India
Chennai 600 027
2. The Deputy General Manager (P&A)
Airports Authority of India
Southern Region
Chennai 600 027

... Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents to absorb and regularise the service of the petitioner as attender/storeman or in any other suitable post with all consequential benefits like continuity of service, fixation of pay and allowances, seniority etc.

For Petitioner :: Ms.C.N.G.Niraimathi

For Respondents :: Mr.M.T.Arunan

ORDER

Mr.B.Arumugam, who was appointed as a casual labour in the year 1997 in the respondent establishment, has come to this Court seeking issuance of a writ of mandamus directing the respondents to absorb and regularise his services as attender/storeman or in any other suitable post with all consequential benefits like continuity of service, fixation of pay and allowances, seniority etc.

2. Learned counsel for the petitioner submitted that the petitioner was appointed as casual labour in the year 1997 in the respondent establishment. Since then, his appointment has been continued on all the days without any break till date. When

he was engaged for cleaning/arranging of stores/godown and assisting for issuing, packing and despatching of communication equipments to different airports in India, he has been continuously discharging his duties efficiently and diligently without any complaints whatsoever. However, when various benefits have been enjoyed by the regular employees, that were denied to the petitioner. Therefore, he has given a representation requesting for regularisation of his services. In the meanwhile, on 17.11.2007, the petitioner was issued with a communication calling him to attend an interview for the post of Junior Attender (Office). As directed by the respondents, the petitioner also attended the interview and in spite of his good performance in the test and interview, he came to be overlooked and 39 candidates came to be appointed pursuant to the interview held on 3.12.2007. After sometime, when he was continuously working, he was again directed to appear for another interview for the post of Attender. Again when the petitioner appeared in the said interview, he was informed that he was not successful. Hence, the petitioner was constrained to approach this Court seeking a mandamus to the respondents to regularise his services and in view of the order passed by this Court, the petitioner is still continuing. When the petitioner has already completed 25 years of continuous service in the respondent establishment, he has acquired rich experience. Therefore, there cannot be any impediment for the respondents to regularise the services of the petitioner.

3. A detailed counter affidavit has been filed by the respondents. The learned counsel for the respondents, unreasonably objecting to the prayer for regularisation, although does not dispute the submission that the petitioner has been working continuously as casual labour from 1997, submitted that there is no payment made to him on day to day basis, as he has been engaged only on requirement basis for petty works like packing, unpacking and loading/unloading on need basis for 3 to 4 days in a week for a fixed quantum of work. When the quantum of work is only for about 3 to 4 hours per day, he has been paid a consolidated sum of Rs.400/- for his casual work based on mutual agreement. Therefore, the respondents are unable to regularise the services of the petitioner.

4. But this Court is unable to find any justification on the part of the respondents for not regularising the services of the petitioner. When he has entered the services of the respondent establishment in the year 1997 and allowed to continue in service, even after completion of 21 long years, he cannot be kept as a casual labour, because even as on date, he has been engaged to do the packing, unpacking, loading and unloading works. The very continuous engagement of the petitioner by the respondents itself shows that a need has arisen for continuing

the petitioner in service. Moreover, when the petitioner is able to establish that he has been working for the last 21 long years, this Court finds no impediment for the respondents to regularise the services of the petitioner. Accordingly, the writ petition stands disposed of with a direction to the respondents to undertake the exercise of regularisation of the services of the petitioner within a period of eight weeks from the date of receipt of a copy of this order. Consequently, M.P.Nos.1 & 2 of 2008 are closed. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Regional Executive Director
Southern Region
Airports Authority of India
Chennai 600 027

2. The Deputy General Manager (P&A)
Airports Authority of India
Southern Region
Chennai 600 027

+lcc to Ms.C.N.G.Niraimathi, Advocate, S.R.No.12645

+lcc to Mr.M.T.Arunan, Advocate, S.R.No.12767

W.P.No.27601 of 2008

VGII(CO)
CS/15/03/2019

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