

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2019

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.8940 of 2011

V.Kumaraswamy

.. Petitioner

vs.

1.The District Project Manager,
Vazhndhu Kaatuvom Project,
15/1, Bavani Street, Alamelupuram,
Villupuram.

2.The Project Director,
Vazhndhu Kaatuvom Project,
No.91, St.Mary's Road,
Abirampuram, Chennai 18.

.. Respondents

Prayer.: Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus calling for the records of the 1st respondent's proceedings in Na.Ka.No.1624/2006 va.ka.dated 07.03.2011 and quash the same as illegal, incompetent, unconstitutional and without jurisdiction and further regularize the services of the petitioner as Facilitator (social Mobilization) together with back wages.

For Petitioner : Mr.V.Raghavachari

For R1 & R2 : Mr.A.Zakir Hussain
Government Advocate.

O R D E R

This writ petition has been filed by the petitioner praying to issue a writ of Certiorarified Mandamus calling for the records of the 1st respondent's proceedings in Na.Ka.No.1624/2006 va.ka.dated 07.03.2011 and quash the same and further regularize the services of the petitioner as Facilitator (social Mobilization) together with back wages.

2. The learned counsel for the petitioner would submit that the petitioner joined in the service of the respondents and they have fixed monthly pay of Rs.6,000/-. After completion of

training, the petitioner was posted to work at Aacharapakkam and due to some discrepancy, the first respondent had terminated the petitioner from service on 07.03.2011.

3. According to the learned counsel for the petitioner, no lapse on the part of the employee engaged in the project. There is a stigma on the petitioner for passing the impugned order. He further submitted that the contract period for the project is also come to an end. Therefore, the termination order would have impact on the petitioner for getting future employment in any of the Government Organisation.

4. The learned Government Advocate would submit that the Tamil Nadu Pudhu Vaazhu Project has fixed the tenure had come to an end of September 2014. So the workers needed for the Project on contract, recruited through Human Resource Agency on the basis of the guidelines of the World Bank. It further submitted that the petitioner was also recruited through Human Resource Agency on contract and joined as Facilitator in Kancheepuram. During the inspection, the Panchayat Level Federation of the SHGs under the charge of the petitioner, on 19.05.2010 found that there was things to drift which could only be attributed to his indifference and apathy. He had failed to help and guide this community based organisation. Therefore, the first respondent came across the following shortcomings in the functioning of the Panchayat Level Federation. The office bearers of the community and explanations also called for and submitted the same on considering the assessment of the petitioner's performance focused on his work during the year 2009-2010 and three panchayats put under his charge. Therefore, he got only 23 for 100 marks in the assessment norms in the bottom. Therefore, as per clause 3 of the contract for a period not extending two years, to review his performance during the contract period and may extend the contract for a further period, if his services during this period have been satisfactory. If the petitioner's 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 the ground of inefficiency. This can be done without resorting to the procedure prescribed under clause 7. Further, his discharge was in tune with this provision of the contract and he could not question it on the basis of the rules that cannot apply to his case. When the Project itself has a limited tenure upto 30.09.2014 there is no question of treating him as a career employee.

5. In support of the contention of the learned counsel for the respondent, he also relied upon the decision of the Hon'ble Supreme Court in Nandgani Sihori Sugar Co., Ltd., Rae Bareli Vs.

Badri Nath Dixit (1991) 3 SCC 54) and (1995) Supp(2) SCC 495,
Integrated Rural Development Agency vs. Ram Pyare Pandey

6. In view of the above said fact, the said contract period was expired. Recording the submission of the learned counsel for both sides, the said termination of the contract in future employment in the respondent's office or any other Government organizations. Therefore, the learned Government Advocate, on instructions would submit that the said removal from termination of the petitioner would not have any stigma on the petitioner, if it is otherwise, he can approach and seek employment in the Government organisation if it is qualified.

The writ petition is disposed of with the above observation.
No costs.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

kkd
To

1.The District Project Manager,
Vazhndhu Kaatuvom Project,
15/1, Bavani Street, Alamelupuram,
Villupuram.

2.The Project Director,
Vazhndhu Kaatuvom Project,
No.91, St.Mary's Road,
Abirampuram, Chennai 18.

+1 cc to M/s.V.Raghavachari, Advocate, Sr.No. 5917
+1 cc to The Government Pleader, Sr.No. 6490

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CSL/19.06.2019

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