

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.04.2019

Coram

The Honourable Mr.Justice D.KRISHNAKUMAR

W.P.No.21324 of 2014

K.Murugesan

...Petitioner

Versus

- 1.State of Tamilnadu
Rep. by its Secretary,
Agricultural Department,
Fort St.George,
Chennai - 600 002.
- 2.The Director,
Department of Agricultural Marketing and Agri Business
Guindy, Chennai - 600 032.
- 3.The Secretary,
Dharmapuri Market Committee,
Mathikonpalayam,
Dharmapuri - 636 002.
- 4.The Supervisor,
Regulated Market,
Pennagaram - 636 810.
Dharmapuri District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to regularize the petitioner's job as night watchman to the permanent post in the time of scale of pay by considering the petitioner's representation dated 01.07.2014.

For Petitioner : Mr.R.Ezhilarasan

For Respondents - 1 & 2 : Mr.M.Karthikeyan,
Additional Govt. Pleader

Respondent - 3 : Mrs.M.E.Rani Selvam

Respondent - 4 : No Appearance

O R D E R

With the consent of both sides, this Writ Petition is taken up for final disposal.

2. The relief sought for in this writ petition is to direct the respondents to regularize the petitioner's job as night watchman to the permanent post in the time of scale of pay by considering his representation dated 01.07.2014.

3. The case of the petitioner is that he was appointed as night watchman on temporary basis by the third respondent on 05.05.2008 in the office of the fourth respondent and he had been paid consolidated salary of Rs.1,500/- per month. Now the petitioner is 51 years old. Despite several applications having been submitted by him along with the relevant documents seeking regularization as permanent employee in the fixed time scale of pay, the respondents have not considered the same. Therefore, on 01.07.2014, the petitioner has made a written representation before the respondents and the same was also received by the respondents but they have kept the same pending for all these years. Therefore, having left with no alternative, the petitioner is constrained to file the present writ petition.

4. The learned counsel appearing for the petitioner submitted that even though the petitioner has been working in the respondent department for a long number of years, his service has not been regularized. He also contended that despite several representations made by the petitioner, the same were not considered by the respondents.

5. The learned Additional Government Pleader appearing for the respondents 1 & 2 submitted that the Government in G.O.Ms.No.107 Agriculture (AM) Department dated 20.04.2001, has issued the orders for appointing a watchman on contractual basis to regulated markets of Tamil Nadu with a monthly honorarium of Rs.1,500/-. Based on the said Government Order, the third respondent has appointed the petitioner as watchman on the contractual basis and therefore, the petitioner is not entitled to seek for regularization of his service. In support of his arguments, he has relied on the judgment, Secretary to Government, School Education Department, Chennai Vs. Thiru.R.Govindasamy & Others reported in 2014 (4) SCC 769, wherein the Honourable Apex Court has held as follows:

"Even temporary, ad hoc or daily-wage service for a long number of years, let alone service for one or two years will not entitle such employee

to claim regularization, if he is not working against a sanctioned post. Sympathy and sentiment cannot be grounds for passing any order of regularization in the absence of a legal right."

6. In view of the submission made by the learned Additional Government Pleader for respondents and the decision of the Honourable Supreme Court in the case of Secretary to Government, School Education Department, Chennai Vs. Thiru.R.Govindasamy & Others reported in 2014 (4) SCC 769 and taking note of the fact that the petitioner's appointment was not through any employment exchange, this Court is not inclined to grant the relief sought for by the petitioner in this Writ Petition. However, taking into consideration of the fact that the petitioner joined in service in the respondent department in the year 2008 and working there for more than 10 years, the respondents are directed to consider the representation of the petitioner and pass appropriate orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.

7. This Writ Petition is disposed of with the above direction. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

mrr
To

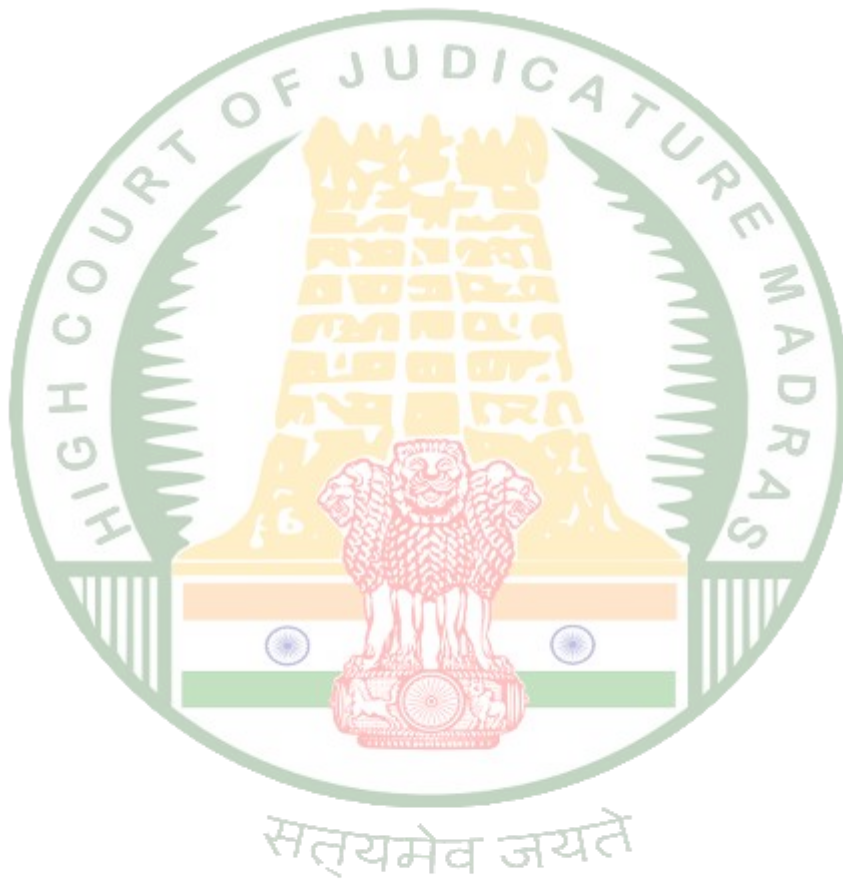
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+1cc to Mr.R.Ezhilarasan , Advocate SR.No. 32142
+1 cc to Government Pleader Sr.No. 31998

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A.SK(27/06/2019)



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