

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.11.2019

CORAM

THE HON'BLE Mr.JUSTICE M.DHANDAPANI

W.P.No.22349 of 2019

and

WMP.No.21665 of 2019

K.Nagarajan

... Petitioner

Versus

- 1.The Secretary to Government,
Revenue Department,
Fort St. George,
Chennai-600 009.
- 2.The Commissioner of Revenue Administration,
Chepauk, Chennai-5.
- 3.The District Collector,
Collectorate,
Salem-636 001.
- 4.The Revenue Divisional Officer,
Cum Sub Collector,
Mettur, Mettur Taluk,
Salem District.
- 5.The Tahsildar,
Taluk Office,
Omalur Taluk,
Salem District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of mandamus or any other appropriate writ or order or direction in the nature of writ directing the respondents to declare the probation and confirmation of petitioner's service with effect from 18.07.1992 as per service rule and consequently direct the respondents to pay the monetary benefits payable to the petitioner with arrears from the date of confirmation.

For Petitioner : Mr.M.Elango

For Respondents1-5 : Mr.A.N.Thambi Durai
Special Government Pleader

O R D E R

This Writ Petition has been filed for the issuance of Writ of Mandamus, directing the respondents to declare the probation and confirmation of petitioner's service with effect from 18.07.1992 as per service rule and consequently direct the respondents to pay the monetary benefits payable to the petitioner with arrears from the date of confirmation.

2. According to the petitioner he was appointed as night watchman in Taluk Office of Omalur Taluk as per the proceeding of the fourth respondent dated 25.04.1991 on daily wage basis. Thereafter, he was reappointed as Masalchi, which is a sanctioned post, in the office of Revenue Divisional Officer, Mettur on 13.08.1991. In the year 1999, the third respondent sent a proposal to the second respondent for regularization of the service of the petitioner. Thereafter, there was correspondence between the second respondent and fourth respondent regarding the service details of the petitioner. However, there was no action in regularising the service of the petitioner.

3. The grievance of the petitioner is that all along he has been working in temporary post without any regularization of his service. In this regard, he made representation on 04.02.2019 to the respondent seeking to regularise his service. Despite representation, there was no action regarding the same but all of a sudden the fourth respondent stopped payment of salary from the month of June 2017 on the ground that there were no sufficient funds to pay the salary of the petitioner. Therefore, the petitioner is before this Court.

4. Learned Special Government Pleader appearing for the respondents while acceding the claim of the petitioner submitted that the petitioner was appointed as per Tamil Nadu Basic Service Rule and he belongs to Scheduled Tribe and he has been continued as temporary employee and since his service in the post of Masalchi was not regularised till date, he was not eligible to draw his salary from the regular head of salary account. Therefore, he would submit that once the service of the petitioner is regularised he will be paid salary from the

regular head of account and other dues payable to him.

5. It is not in dispute that the petitioner has been appointed in the sanctioned post of Masalchi on temporary basis and for the years together he has been working for the same post and it is also not in dispute that the fourth respondent sent proposal to the second respondent for regularization of service of petitioner for the post of Masalchi. While so, instead of regularising the services of the petitioner, it is unfortunate that all of a sudden, the payment of salary was stopped on the premise that since his service in the post of Masalchi was not regularised, he was not eligible to draw salary from the regular head of salary account. There is no instruction on the part of the respondents in not regularising the service of the petitioner that he has been working on temporary basis for years together. This Court and Hon'ble Supreme Court, time and again, has considered the issue of temporary employees and had put in ten years of service on temporary basis and directed regularization of those temporary employees while construing G.O.Ms.22, P&AR department dated 28.02.2006. Therefore, it is incumbent upon the respondents to regularise the service of the petitioner and pay the consequential benefits to which he is entitled to.

6. In such view of the matter, the second respondent is directed to consider the claim of the petitioner and pass appropriate orders in regularising the service of the petitioner and also grant consequential benefits to which he is entitled to, including arrears of salary, within a period of the six weeks from the date of receipt of a copy of this order.

7. Accordingly, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(DR CJ conf)

//True Copy//

Sub Assistant Registrar

bkn

To

1.The Secretary to Government,
Revenue Department,
Fort St. George,
Chennai-600 009.

2.The Commissioner of Revenue Administration,
Chepauk, Chennai-5.

3.The District Collector,
Collectorate,
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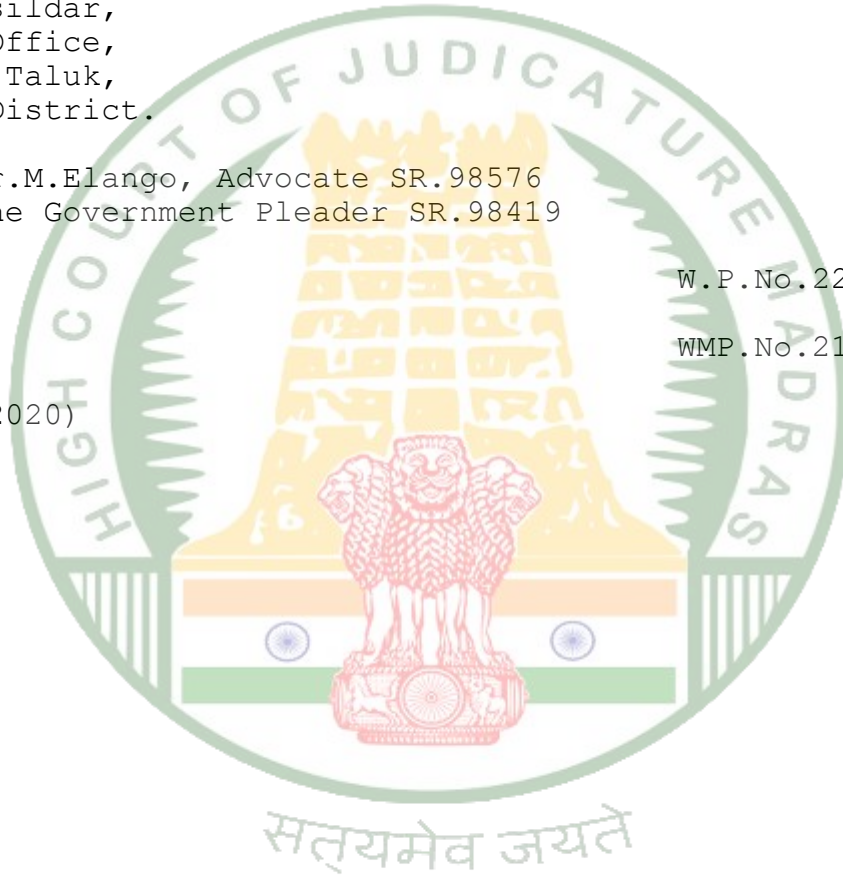
4.The Revenue Divisional Officer,
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Salem District.

5.The Tahsildar,
Taluk Office,
Omalur Taluk,
Salem District.

+1cc to Mr.M.Elango, Advocate SR.98576
+1cc to the Government Pleader SR.98419

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SPD(CO)
CB(31/01/2020)



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