



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.32707 of 2019

S.Sivaraj

... Petitioner

.Vs.

1. The State of Tamil Nadu rep.by its
Additional Chief Secretary to Government,
Department of Rural development &
Panchayat Raj, Fort St.George,
Chennai-09.
2. The Director,
Directorate of Rural development &
Panchayat Raj, Panagal Building,
Saidapet, Chennai 600 015.
3. The District Collector,
Nagapattinam District,
Nagapattinam.
4. The Commisiiioner,
Kilvelur Panchayat Union,
Kivelur & Taluk,
Nagapattinam District.

... Respondents

Prayer:-

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the 1st respondent to consider and pass orders on the proposal made by the 3rd respondent in proceedings Na.Ka.No.5160/U.Va.2/2014 dated 10.01.2015 for ratifying the appointment of the petitioner in the post of Night Watchman in the light of G.O.(2D) No.65 Rural Development & Panchayat (E5) Department dated 20.09.2008 within a stipulated period of time.

For petitioner : Mr.R.Prem Narayan

For Respondents: Mrs.R.Janaki
Additional Government Pleader



ORDER

The petitioner has filed this writ petition seeking issuance of a Writ of Mandamus to direct the 1st respondent to consider and pass orders on the proposal made by the 3rd respondent in proceedings Na.Ka.No.5160/U.Va.2/2014 dated 10.01.2015 for ratifying the appointment of the petitioner in the post of Night Watchman in the light of G.O.(2D) No.65 Rural Development & Panchayat (E5) Department dated 20.09.2008.

2.The case of the petitioner is that he was appointed as Cholera Mazoor on daily wages in Keelvelur Panchayat Union in the Nagapattinam District in January 1985. Subsequently, on 30.06.1997, he was ousted from service for want of vacancy and he was filed O.A.No.5536 of 2001 before the Tamil Nadu Administrative Tribunal at Chennai, to direct the respondents to appoint him as Basic Service Personnel in any of the regular vacancies and to regularise his service with effect from the date of his first appointment i.e., from January 1985 onwards. By an order dated 22.03.1998, the Tribunal allowed T.A.No.729 of 1993 directed to post the applicant in the next vacancy that arises in the category of Basic Servant or Watchman or any other post equivalent to Cholera Mazdoor. By an order dated 22.03.1998, the Tribunal directed the respondent herein to dispose of the representation dated 26.05.2000. Pursuant to the direction issued by the Tamil Nadu Administrative Tribunal in OA.No.5536 of 2001, the Commissioner of Kilbelur Panchayat Union issued an order dated 10.12.2001 appointing the petitioner in the post of Night Watchman with effect from 10.12.2001 on time scale pay of Rs.2550-55-2660-60-3220 and subsequently on 03.04.2002, appointment was cancelled. Again, he filed O.A.No.2747 of 2002, before the Tribunal challenging the order of cancellation of his appointment in the post of Night Watchman by an order dated 03.04.2002. Subsequently, the Tribunal has granted interim Stay and the same was not obeyed by the respondent. Consequent to the abolition of the Tamil Nadu Administrative Tribunal, the original application was transferred to this Court and renumbered as W.P.No.5783 of 2007. By an order dated 24.10.2007, this Court set aside the impugned order dated 03.04.2002. However, the said order was not complied with and he filed Contempt Petition No.628/2008, before this Court. In order to avoid contempt proceedings, the Commissioner of Kilvelur Panchayat Union issued fresh order on 05.11.2008, appointing the petitioner as Night Watchman and he joined in the said post. Thereafter, the petitioner was issued show cause notice dated 26.11.2008. After submitting the explanation, again he was appointed as Office Assistant by an order dated 22.01.2011 and he was joined in the said post only on 24.01.2011. Subsequently, in proceeding Na.Ka.867/2013A8 dated 21.11.2014, the Commissioner of Kilvelur Panchayat Union



sent a proposal for ratifying his appointment in the post of Office Assistant. Based on the proposal dated 21.11.2014, the District Collector of Nagapattanam District forwarded a proposal in Na.Ka.No.5160/U/Va/2/2014 dated 10.01.2015 requesting the Director of Rural Development Chennai to get appropriate orders from the government ratifying his appointment since it was still pending. The petitioner also made a representation on 09.11.2019 to the respondents, however, till date, the same has not been considered. Hence, this writ petition.

3.Heard both sides.

4.The learned counsel for the petitioner submitted that in similar circumstances on 20.09.2008, the Government had issued G.O.(2D).No.65 Rural Development & Panchayat (E5) Department dated 20.09.2008 ratifying the appointment of similarly placed persons. The learned counsel further submitted that it would suffice, if a direction is issued to the respondents to consider the representation of the petitioner dated 09.11.2019 and pass orders, within a stipulated time fixed by this Court.

5.Though the petitioner has sought for a larger relief, this Court without going into the merits of the case, directs the respondent to consider the petitioner's representation dated 09.11.2019 and pass orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of copy of this order.

6.With the above direction, this writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

KP

To

1. The State of Tamil Nadu rep.by its
Additional Chief Secretary to Government,
Department of Rural development &
Panchayat Raj,
Fort St.George,
Chennai-09.



2. The Director,
Directorate of Rural development &
Panchayat Raj,
Panagal Building,
Saidapet,
Chennai 600 015.

3. The District Collector,
Nagapattinam District,
Nagapattinam.

4. The Commisisioner,
Kilvelur Panchayat Union,
Kivelur & Taluk,
Nagapattinam District.

+lcc to Mr.R.Prem Narayan, Advocate, S.R.No.97426
+lcc to the Government Pleader, S.R.No.98057

W.P.No.32707 of 2019

VBA(CO)
CS/18/12/2019