

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 06.12.2019
CORAM
THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
W.P No.33368 of 2019
W.M.P Nos.33829 & 33830 of 2019

V.Rengasamy

Petitioner

vs.

The Commissioner,
Thalaivasal Panchayath Union,
Rural Development and Panchayat Raj Department,
Salem.

Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to Recruitment Notification bearing No.85/2019/A4 dated 18.11.2019 and quash the same and consequently directing the respondent to consider the petitioner's representation dated 25.11.2019 and regularize his services as Fulltime Night Watchman or Full time Masalji with effect from 12.11.1994 with all consequential benefits as per G.O.Ms.No.22 dated on 28.02.2006.

For Petitioner : Mr.T.R.Udaya Kumar
For Respondent : Mr.S.Suresh Kumar
Government Advocate

ORDER

This writ petition has been filed challenging the notification issued by the respondent calling for applications to fill up the post of Full time Night Watchman at Thalaivasal Panchayath Union.

2.The case of the petitioner is that he was appointed as a Night Watchman at Thalaivasal Panchayath Union in the year 1994 and that he is working in the said post continuously till date. According to the petitioner, the State Government has issued G.O.Ms.No.22 dated 28.02.2006 and it has directed to regularize the service of all those persons who are working on temporary basis on their completion of ten years of service. According to the petitioner, the petitioner is working in a sanctioned post. The petitioner made a representation to the concerned authorities and since the same was not considered, the petitioner filed W.P.No.19665 of 2018 before this Court seeking for appropriate directions. This Court considered the writ petition along with other connected writ petitions and passed an

order directing the Secretary to Government of Tamil Nadu, Rural Development and Panchayat Raj Department to pass orders on the representation within a period of six weeks.

3.The order passed by this Court was not complied with and in the mean time the respondent had issued the notification to fill up the post of Night Watchman in the concerned Panchayat Union. Aggrieved by the same, present writ petition has been filed before this Court.

4.The learned counsel for the petitioner submitted that the petitioner has been working in the Thalaivasal Panchayath Union for more that 25 years without break and that he is entitled to be regularized in service as per G.O.Ms.No.22 dated 28.02.2006. The learned counsel further submitted that this Court already directed the Government to pass orders and without passing any orders on the representation made by the petitioner, a fresh notification has been issued by the respondent to fill up the post by calling for applications. The learned counsel submitted that if fresh appointment is made, the petitioner will be deprived of all the services that he has put in for the last 25 years and he would be sent out of service. Therefore, the learned counsel submitted that the notification issued by the respondent requires interference and the respondent should be instructed to regularize the services of the petitioner.

5.Per contra, Mr.S.Suresh Kumar, learned Government Advocate appearing on behalf of the respondent submitted that the appropriate authority to consider the entitlement of the petitioner for regularization is only the present respondent. The present respondent was not aware about the earlier order passed by this Court and therefore the directions given by this Court was not complied with. The learned counsel submitted that the respondent had issued notification to fill up the post of Night Watchman at Thalaivasal Panchayath Union since it is a selection post and it can be filled up only by calling for applications from all the eligible candidates. The learned counsel submitted that the notification issued by the respondent does not require any interference and there are absolutely no merits in this writ petition.

6.This Court has carefully considered the submissions made on either side and also the materials available on record.

7.The petitioner claims to be employed at Thalaivasal Panchayath Union from the year 1994 till date. The petitioner is claiming for regularization as per G.O.Ms.No.22, dated 28.02.2006. The petitioner has also made a representation in

this regard and no orders have been passed on the same. In the mean time, a notification has been issued by the respondent to fill up the post of Night Watchman in the Panchayat Union.

8.It is true that an earlier direction was issued by this Court in W.P.No.19665 of 2018 by an order dated 01.08.2018. However, the direction was issued to the authorities who were not competent to decide the same. The appropriate authorities to consider the representation is only the respondent in the present writ petition. If the present respondent was a party in that writ petition, by now, orders would have been passed and the petitioner would have known where he actually stands. Unfortunately, it has not happened.

9.In the facts and circumstances of the case, this Court deems it appropriate to direct the respondent to comply with the orders passed by this Court in W.P.No.19665 of 2018, dated 01.08.2018. The representation shall be considered in accordance with the orders passed by this Court, strictly in accordance with law, within a period of four weeks from the date of receipt of representation from the petitioner. In the mean time, the respondent shall not finalize any appointment pursuant to the notification that has been issued on 18.11.2019. The petitioner is directed to give a fresh representation to the respondent along with the copy of the order passed by this Court in W.P.No.19665 of 2018 and also a copy of this order, within a period of two weeks from the date of receipt of copy of this order.

10.This writ petition is disposed of with the above direction. Consequently, connected miscellaneous petitions are closed. No Costs.

सत्यमेव जयते
Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

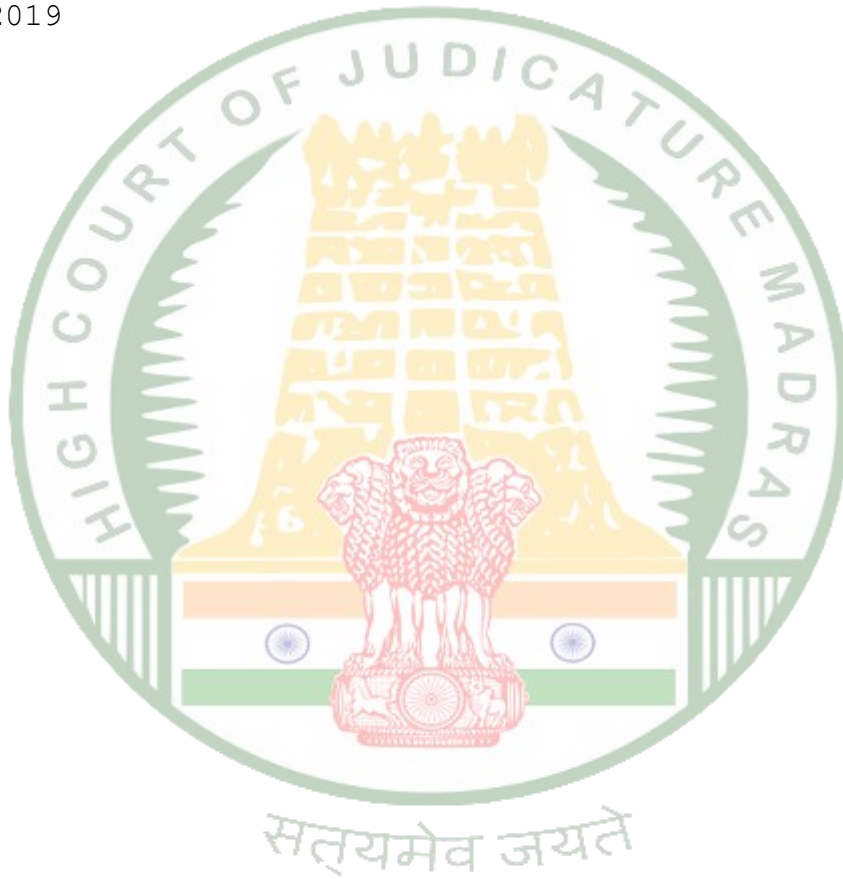
1. The Commissioner,
Thalaivasal Panchayath Union,
Rural Development and Panchayat Raj Department,
Salem.

2. The Public Prosecutor,
High Court of Madras,
Madras.

+1cc to Mr.T.R.Udaya Kumar, Advocate sr.10192

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