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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.07.2019

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN  
AND

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.A.No.2717 of 2018

P. Kannayiram

..Appellant/Petitioner

vs

1. The Executive Officer,  
Thimiri Selection Grade Town Panchayat,  
Thimiri, Vellore District - 632512.

2. The Director of Town Panchayat,  
Kuralagam Building,  
Esplanade, Chennai-108.

.. Respondents/Respondents

Prayer: Writ Appeal is filed under clause 15 of the Letters Patent praying to allow the writ appeal by setting aside the order dated 09.05.2018 passed in W.P.No.12125 of 2018 on the filed of the Hon'ble High Court.

Prayer in WP.No.12125 of 2018:

Petition filed Under Article 226 of the constitution of India directing the respondents herein to regularise the service of the petitioner on Time Scale of Pay as per the order dated 01.09.2015 passed by the Division Bench of this Hon'ble High Court in W.P.No.4943 of 2014 with all attendant benefits and to direct the 1<sup>st</sup> Respondent to forward the petitioners pension paper taking into consideration of G.O.Ms.No.408 Revenue (Pension) Department dated 25.08.2009.

For Appellant : Mr. V. Venkatasamy

For Respondents : Mr. P.S. Sivashanmugasundaram,  
Spl.G.P. for R1

Mr. A. Srijayanthi, Spl.G.P. for R2



## JUDGMENT

(Judgment of the Court was delivered by P.T.ASHA, J)

The above intra-court appeal is filed challenging the order passed in W.P.No.12125 of 2018 in and by which the Writ Petition filed by the appellant for the issue of a writ of mandamus directing the respondents to regularize his service on Time Scale of Pay as per order dated 01.09.2015 in W.P.No.4943 of 2014 with all attendant benefits and consequentially direct the first respondent to forward the petitioner's pension papers taking into consideration the order in G.O.Ms.No.408 Revenue (Pension) Department dated 25.08.2009 was dismissed.

2. The facts in brief leading to the initiation of the above Writ Appeal are as follows:

The appellant was appointed to the post of Electrician (Grade 2) through the District Employment Exchange in the year 1984 by the first respondent. He was appointed on 25.09.1984 on the Non Mazdoor Rolls on daily wages. The appellant had been discharging his duties since then.

3. While so, the Government of Tamil Nadu passed G.O.Ms.No.198 (Municipal Administration and Water Supply) Department dated 26.10.1998 to absorb NMR workers who have been working on daily wages as on 31.12.1996 in that post on consolidated pay for three years. Thereafter, on completion of the 3 years period on consolidated pay, the concerned Town Panchayat was directed to take steps to regularize the service of the workers on Time Scale of Pay. On coming to know about the G.O. the appellant had approached this Court by filing W.P.No.4943 of 2014 for a Mandamus to regularize his service. Similarly, number of Writ Petitions were filed by various petitioners seeking a similar relief. By order dated 01.09.2015, the Division Bench of this Court was pleased to allow the Writ Petitions and the following order was passed:

" In view of the foregoing, these writ petitions also are disposed of in the same terms, in which, the aforesaid batch of writ appeals was decided. As a sequel, the petitioners are entitled to consideration for grant of time scale on regular basis on the basis of performance assessment to be done on completion of three years and in the event, the performance of the petitioners, is found satisfactory, they are entitled to regularisation on completion of three years, with all consequential monetary benefits."



4. Despite such a positive order, the first respondent herein did not take any step to regularize the services of the appellant. Therefore a lawyer's notice dated 27.07.2017 was issued by the appellant to the first respondent. However, no steps were taken to comply with the order in W.P.No.4943 of 2014. Since the Division Bench had not fixed a time limit for regularizing the services, the appellant could not even move for Contempt. Therefore, the appellant had come forward with the Writ Petition in question.

5. The Learned Single Judge by order dated 09.05.2018, dismissed the writ petition without reference to the earlier order passed by the Division Bench in W.P.No.4943 of 2004 Batch. Aggrieved by the same, the appellant is before this Court.

6. The learned counsel for the appellant would contend that despite the orders of this Court directing the respondent to regularize the petitioners therein, the exercise has not been done to date by the respondents.

7. Mr.L. P.Sivashanmugasundaram, learned Special Government Pleader for the first respondent and Ms. A. Srijayanthi, learned Special Government pleader for the second respondent would contend that already one Satish has been appointed and therefore the appellant cannot be accommodated. They would further argue that the appellant has himself given a letter accepting the employment as directed by the Government Order in G.O.Ms.No.242 (Municipal Administration and Water Supply) Department dated 10.12.2009. It is the contention of the Learned Special Government Pleader that the appellant cannot now seek to have his appointment regularized as per G.O.Ms.No.198.

8. The appellant has categorically denied the execution of this letter dated 28.09.2012.

9. Be that as it may, the appellant has succeeded earlier in W.P.No.4943 of 2014 wherein the respondents have been directed to implement the order made in G.O.198 in respect of him and the other writ petitioners. In the light of the order in W.P.No.4943 of 2014, the respondents cannot be allowed to plead otherwise. We are also informed that that the appellant has superannuated.

10. The learned counsel for the appellant would submit that the regularization is only for the purpose of obtaining the Pensionary benefits and the appellant would not be entitled to claim any arrears of salary.

11. The Writ Appeal is disposed off with the direction to the respondents to regularize the services of the appellant with



effect from 24.08.2001. It is made clear that the appellant shall not be entitled to monetary benefits. The said exercise shall be completed within a period of four (4) weeks from the date of receipt of a copy of the Judgment.

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12. The intra-court appeal is disposed off on the above lines. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mrn

To,

1. The Executive Officer,  
Thimiri Selection Grade Town Panchayat,  
Thimiri, Vellore District - 632512.

2. The Director of Town Panchayat,  
Kuralagam Building,  
Esplanade, Chennai-108.

+1cc to Mr.P.S.Sivashanmugasundaram, Advocate, S.R.No.56999

+1cc to the Government Pleader, S.R.No.56511

W.A.No.2717 of 2018

SJ(CO)

RRS (28/08/2019)