



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.571 of 2016

S.Mathiyas

... Petitioner

Vs.

The District Collector,
Chathiram Administration,
Thanjavur District,
Thanjavur.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the respondent to consider the petitioner's representation, dated 07.09.2015 to regularize his service in view of the directions of this Court in W.P(MD)No.9802 of 2012, dated 31.07.2012 and to pay all consequential arrears and terminal benefits with pension from the date of superannuation on 31.03.2013.

(Prayer amended vide order, dated 11.04.2019
in W.M.P(MD)No.932 of 2016)

For Petitioner : Mrs.Farjana Ghousia

For Respondent : Mr.C.M.Mari Chelliah Prabhu,
Additional Government Pleader.

ORDER

This writ petition has been filed seeking issuance of a writ of Mandamus, to direct the respondent to consider the petitioner's representation, dated 07.09.2015, to regularize his service in view of the directions of this Court in W.P(MD)No.9802 of 2012, dated 31.07.2012 and to pay all consequential arrears and terminal benefits with pension from the date of superannuation on 31.03.2013.

2.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

3.The learned counsel appearing for the petitioner submitted that earlier, for the very same relief, the petitioner filed a Writ Petition in W.P(MD)No.9802 of 2012 seeking to regularize his service as Watchman and this Court, by order, dated 31.07.2012, allowed the Writ Petition. Since there was no response on the above said order



and now, he reached the age of superannuation, the petitioner sent a representation, dated 07.09.2015 to the respondents. However, the said representation was not considered. Hence, the petitioner is before this Court.

4. The learned counsel appearing for the petitioner brought the notice of this Court to the order passed in W.P(MD)No.9802 of 2012, dated 31.07.2012, wherein, the relevant portion of the order reads as follows:-

"5. Since both parties agreed that the petitioner has completed 10 years of continuous service and his name has been recommended already in the earlier case, the petitioner's case is fully covered by the judgment of this Court in W.P.(MD)Nos.4711 to 4717 of 2010, dated 25.07.2011 and paragraphs 5 and 6 are extracted hereunder:

"5. It is brought to the notice of this Court that in identical circumstances in respect of the Animal Husbandry and Veterinary Science Department, similarly placed persons working as Sweepers had sought for regularisation of their services in terms of G.O.Ms.No.22, dated 28.2.2006. This Court by an order dated 4.12.2008 allowed the Writ Petitions by directing that those persons, who are eligible to the benefit of G.O.Ms.No.22, Personal and Administrative Reforms(f) Department, dated 28.02.2006, shall be extended the same and absorbed into regular time scale. This Court, while passing the order, took note of the fact that in an earlier writ petition being W.P.No.11707 of 2006, was disposed of by an order dated 22.12.2006, by directing the authorities to regularize the services of the petitioner therein, based on G.O.Ms.No.528, dated 10.10.1998. As against the said order, the Government filed an appeal being W.A.No.391 of 2007, which was dismissed by the Division Bench of this Court on 25.10.2007. Further, it is observed that in W.P.No.32446 of 2005, which was filed challenging the order of de-regularization, this Court by an order dated 1.2.2006 held that the benefit under G.O.Ms.No.528, dated 10.10.1998, is applicable even to part time employees also. Thus, in the light of the above settled position, the petitioners are entitled to be granted the benefit of G.O.Ms.No.22, Personal and Administrative Reforms(f) Department, dated 28.02.2006.

6. In the light of the above, the Writ Petitions are allowed directing the respondents to pass suitable orders by applying G.O.Ms.No.22, dated 28.02.2006, to the petitioners upon their completion of more than 10 years of service either as casual labourers, daily wage earners or part time employees in the services of the third respondent. The respondents shall pass orders in this regard within a period



of three months from the date of receipt of a copy of this order. No costs."

6. Following the same, the Writ Petition is allowed directing the respondent to pass suitable orders by applying G.O.Ms.No.22, dated 28.02.2006 to the petitioner upon his completion of more than 10 years of service either as casual labourers, daily wage earners or part-time employees in the services of the respondent. The respondent shall pass orders in this regard within a period of three months from the date of receipt of a copy of this order. No costs."

5. When the matter was taken up for hearing, the learned Additional Government Pleader appearing for the respondents fairly submitted that in the light of G.O.Ms.No.22, dated 28.02.2006, the case of the petitioner would be considered by the respondent.

6. In view of the above submission, this Court, without going into the merits of the case, directs the respondent to consider the representation of the petitioner, dated 07.09.2015, in the light of G.O.Ms.No.22, dated 28.02.2006 and also in the light of the order of this Court in W.P(MD)No.9802 of 2012, dated 31.07.2012 and pass appropriate orders, on merits and in accordance with law, after due opportunity of hearing to the petitioner, within a period of six weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (Crl Side)

// True Copy //

Sub Assistant Registrar (CS)

To

The District Collector,
Chathiram Administration,
Thanjavur District,
Thanjavur.

+1cc to Mr.K.MUTHUMALAI, Advocate, SR.No. 62769

+1cc to M/s.Special Government Pleader, SR.No.62847

W.P (MD) No.571 of 2016

25.04.2019