



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2019

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CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.2786 of 2015
and
M.P (MD) No.1 of 2015
and
W.M.P (MD) No.15035 of 2016

Mr.Justin Bens

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
At Nagercoil.

2.Personal Assistant to Collector (Development),
Office of the District Collector,
Kanyakumari District,
At Nagercoil.

3.The President,
Kannanoor Village Panchayat,
Kannanoor Post,
Kalkulam Taluk,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the third respondent herein on the basis of information given by the second respondent herein in his letter No.Nil dated 23.02.2015 and quash the same and consequently direct the respondents to allow the petitioner for continuous work and disperse the salary continuously.

For Petitioner : Mr.S.Titus



For R1 & R2

: Mr.D.Muruganandham,
Additional Government Pleader

For R3

: No appearance

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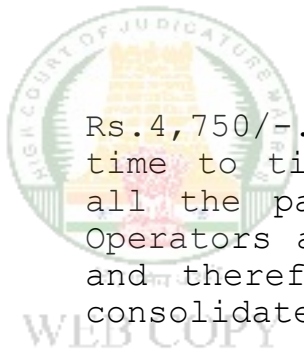
ORDER

The order, dated 23.02.2015 passed by the President, Panchayat Union stating that the daily wage payment will not be made to the writ petitioner and the consolidated pay salary alone will be paid, is under challenge in the present writ petition.

2. The writ petitioner was appointed as Water Supply Over Head Tank and Pump Set Operator on 13.11.1992. The petitioner states that he is continuously working as Water Supply Operator in Kannanoor Village Panchayat for the past many years. The job of the writ petitioner is to switch on and switch off the Electric motor pumps and as well as to clean the Tanks and ensure that the water supply is provided to the villagers.

3. The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner was appointed as daily wage employee and initially daily wage payment was made to the writ petitioner. However, the said daily wage payment was stopped and thereafter, monthly consolidated pay is being paid to the writ petitioner. Thus, the writ petitioner is constrained to move the present writ petition.

4. The learned Additional Government Pleader appearing on behalf of the respondents opposed the contention by stating that the writ petitioner was engaged as part time Over Head Tank Operator. The nature of the job is part time. Morning as well as Evening, the electrical motor is to be switched on and switched off by the writ petitioner and he should ensure that the water supply is provided to the Village people. The nature of the job is part time and therefore, the District Collector issued a direction to all the Panchayat to pay consolidated pay salary to these part time water supply attenders. The Government issued orders in G.O.Ms.No.192, Rural Development Department, dated 10.06.1997 enhancing the consolidated pay salary to the part time employees working in Village Panchayats such as Sanitary Workers, Over Head Tank Operators, Water Supply Attenders etc. Periodically, the consolidated pay salary is being enhanced from time to time. As per the Government Orders in force, the writ petitioner is eligible to get the consolidated pay salary only. The monthly consolidated pay at Rs.2,000/- was paid with effect from 01.01.2011, subsequently, the said consolidated pay was further enhanced. As of now, the writ petitioner is receiving consolidated pay salary of



Rs.4,750/-. Relying on the Government Orders, which all are passed time to time, the learned Additional Government Pleader said that all the part time temporary employees working as Over Head Tank Operators are paid monthly consolidated pay salary across the state and therefore, the writ petitioner is also eligible to get the consolidated pay salary.

5. The learned counsel appearing on behalf of the writ petitioner made a submission that no payment was made to the writ petitioner at all. Mrs.C.Gijilet Selena, Block Development Officer, Thiruvattar Panchayat Union, Kanniyakumari District is present before this Court along with files and has placed the records by stating that the monthly consolidated pay salary is being dispensed to the writ petitioner and the said amount is credited directly in the Bank account of the writ petitioner through ECS system. The consolidated pay salary is punctually paid to the writ petitioner. When this Court asked the learned counsel for the petitioner regarding the statement made, then on enquiry with the writ petitioner, the learned counsel also conceded that the consolidated pay salary was received by the writ petitioner.

6. This Court is of the considered opinion that the nature of the job of Over Head Tank Operator is a part time employment. The Government has taken a decision to pay consolidated pay salary to all such employees working in various Panchayat across the State. Thus, the writ petitioner has to either accept the consolidated pay salary or to take a decision whether to continue the employment or not. The initial appointment of the writ petitioner was not made in accordance with the recruitment rules in force. The initial appointment of the writ petitioner was irregular. Thus, part time employees engaged to perform the duties and responsibilities attached to the post of Over Head Tank Operators cannot seek any regularisation or permanent absorption, in view of the fact that the appointments were not made properly, the benefit of regularisation or permanent absorption cannot be granted. However, as per the Government policy, the petitioner is being paid consolidated pay salary and therefore, he has to either accept the service condition of the part time employment or to take a decision in this regard. The authorities competent are also bound to assess the work performance of these part time employees. The work performance of these part time employees are to be periodically assessed by the competent authority and in the event of any negligence, lapse or dereliction of duty, all appropriate actions are to be initiated under the Rules.

7. This being the facts and circumstances placed before this Court, the writ petitioner is being continuously paid consolidated pay salary as per the Government Orders in force and therefore, no further consideration needs to be shown in respect of the claim set out in the present writ petition.



8. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The District Collector,
Kanyakumari District,
At Nagercoil.

2.Personal Assistant to Collector (Development),
Office of the District Collector,
Kanyakumari District,
At Nagercoil.

+1 CC to M/s.SPL GP (SR-80599[F] dated 08/08/2019)

+1 CC to M/s.S.TITUS, Advocate (SR-81025[F] dated 09/08/2019)

W.P. (MD)No.2786 of 2015
07.08.2019

am

JMN(29.08.2019) 4P : 5C