



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.5493 of 2016

Arumugham

... Petitioner

-Vs-

1.The Chief Secretary,
Secretariat, Chennai-9.

2.The Director,
Directorate of Panchayaths,
Kuralagam, Chennai-600 108.

3.The District Collector,
Kanyakumari District,
Nagercoil. PIN:629001.

4.The Assistant Director of Town Panchayath,
Nagercoil Zone, Nagercoil. PIN:629001,
Kanyakumari District.

5.The Executive Officer,
Anuchugramam Town Panchayath,
Anuchugramam Post, PIN:629401,
Kanyakumari District.

... Respondents

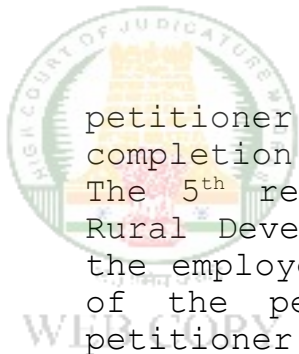
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 2, 4 and 5 to regularize the petitioner's service with effect from 01.01.2002 on time scale with arrears in accordance with G.O.(Ms) No.60, Rural Development & Panchayath Raj, dated 23.06.2006.

For Petitioner : Mr.Hariprasad
For R1 to R4 : Mr.V.R.Shanmuganathan,
Special Government Pleader.
For R5 : Mr.M.Rajarajan

ORDER

This Writ Petition is filed, seeking for a direction to the respondents 2, 4 and 5 to regularize the petitioner's service, with effect from 01.01.2002 on time scale with arrears in accordance with G.O.(Ms)No.60, Rural Development & Panchayath Raj, dated 23.06.2006.

2.The petitioner was appointed as Sanitary Worker at 5th respondent Panchayat on 05.03.1994, on daily wage basis and she was brought under consolidated pay from 01.01.1999. According to the learned counsel appearing on behalf of the petitioner, as per various Government Orders and the orders of this Court, the



petitioner is entitled for regularization of her service, on completion of three years and to be brought under time scale of pay. The 5th respondent, as per the Government Order in G.O.Ms.No.60, Rural Development and Panchayat Raj, dated 23.06.2006, regularized the employees similarly placed like the petitioner, but the service of the petitioner alone was not regularized. Therefore, the petitioner gave representation, dated 20.10.2015, to the respondents. However, the same has not been considered, so far. Hence, the petitioner has come out with the present Writ Petition for the abovesaid relief.

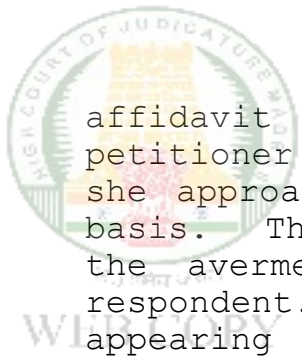
3.The 5th respondent filed counter affidavit. The learned Special Government Pleader appearing for the respondents 1 to 4 and the learned counsel appearing for the 5th respondent submitted that the petitioner was appointed as Sanitary Worker and the petitioner abandoned her work from 01.05.2003 to 01.12.2004. Thereafter, the 5th respondent, by considering her pitiable condition that her husband deserted her, has given appointment to the petitioner as Sanitary Worker on contract basis. Subsequently, she worked till April, 2017 and she did not turn up for work and after 30.04.2017, she left from the service. The petitioner is not entitled for regularization, as she was appointed only on contract basis. The representation of the petitioner, dated 20.10.2015, was considered and rejected, by the proceedings dated 10.12.2015 and the same was communicated to the petitioner. The petitioner has not challenged the said proceedings.

4.The learned Special Government Pleader appearing for the respondents 1 to 4 and the learned counsel appearing for the 5th respondent relied on the judgment of the Hon'ble Supreme Court of India in the case of **Secretary to Government, School Education Department Vs. Govindasamy** reported in **CDJ Law Journal 2014 SC 146**, in support of their contentions.

5.The learned counsel appearing for the petitioner in reply to the same, contended that the petitioner is now working as Sanitary Worker in the 5th respondent Panchayat.

6.Heard Mr.Hariprasad, learned counsel appearing on behalf of the petitioner, Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing on behalf of the respondents 1 to 4 and Mr.M.Rajarajan, learned counsel appearing on behalf of the 5th respondent.

7.Considering the entire materials, it is seen that the petitioner was originally appointed on daily wage basis in the year 1994, subsequently, on consolidated pay. The respondents filed counter, stating that she left her service on 01.12.2004. When the petitioner has approached the 5th respondent, he gave appointment on contract basis and she was working till 30.04.2017. In the counter



affidavit filed by the 5th respondent, it is stated that the petitioner abandoned her work from 01.05.2003 to 01.12.2004 and when she approached the second respondent, she was engaged on contract basis. The petitioner has not filed any reply affidavit, denying the averments made in the counter affidavit filed by the 5th respondent. Further, the learned Special Government Pleader appearing for the respondents 1 to 4 and the learned counsel appearing for the 5th respondent have produced the proceedings, dated 10.12.2015, whereby the second respondent has rejected the representation of the petitioner, dated 20.10.2015. The petitioner has not challenged the said proceedings. In view of the same, the petitioner is not entitled for the relief sought for in the present Writ Petition.

8.For the above reasons, this Writ Petition stands dismissed.
No costs.

Sd/-

Assistant Registrar (AD I)

// True Copy //

Sub Assistant Registrar(CS)

Myr

To

1.The Chief Secretary,
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2.The Director,
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3.The District Collector,
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4.The Assistant Director of Town Panchayath,
Nagercoil Zone, Nagercoil. PIN:629001,
Kanyakumari District

+1 CC to M/s.M.P.HARI PRASAD, Advocate (SR-89201[F] dated 25/09/2019

+1 CC to M/s.GP (SR-89835[F] dated 26/09/2019)

W.P. (MD) No.5493 of 2016

25.09.2019

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