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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 19.08.2020

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.13376 of 2013

and

M.P.No.1 of 2013

T.Natarajan

.. Petitioner

- Vs -

1. The District Employment Officer,
District Employment Office,
Nagapattinam 611 001.

2. The District Employment Officer,
District Employment Exchange for the Unskilled
Teacher's Colony, Adyar, Chennai 600 020. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus, directing the respondents to forthwith restore the registration of the petitioner with due seniority in the District Employment Exchange at Nagapattinam in the category of Sweeper (Occupation Code No.541.20) and renew the same with continuous effect and also to pay the petitioner such amount as compensation for the sufferings of the petitioner on account of the wrong committed by the respondent.

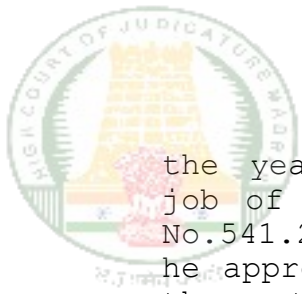
For Petitioner : M/S.P.K.Rajagopal

For Respondents: Mr.S.Thangavel,Spl.G.P.

ORDER

The writ petition was filed by the petitioner, to direct the respondents to forthwith restore the registration of the petitioner with due seniority in the District Employment Exchange at Nagapattinam in the category of Sweeper (Occupation Code No.541.20) and renew the same with continuous effect and also to pay the petitioner such amount as compensation for the sufferings of the petitioner on account of the wrong committed by the respondent.

2.The case of the petitioners is that the petitioner has studied upto fifth standard, belongs to schedule caste community, and enrolled his name in the Employment Exchange, Nagapattinam, in



the year 1988, bearing Registration No.9967/1998, for getting job of sanitary worker (sweeper) which has the occupation code No.541.20. While so, for renewing his employment registration, he approached the 1st respondent, where he was informed him that the petitioner's records were missing. Due to the diligent follow up of the petitioner, to his shock and surprise, finally he was informed that his registration had been transferred along with the records to the file of the second respondent. It is the case of the petitioner that he has not made any request and that without his consent, his registration was transferred to the file of the second respondent. Therefore, the present petition has been filed.

3. Mr.P.K.Rajagopal, learned counsel appearing for the petitioner, drawing the attention of this Court to the counter of the respondents submits that the counter itself reveals that the application submitted by the petitioner could not be traced in the files of the respondent. In such a backdrop, without there being any material, transferring the registration of the petitioner from the Employment Exchange, Nagapattinam to Employment Exchange at Adyar, Chennai, when all along it is the case of the petitioner, that he has not sought for any transfer by filing any application, is wholly unsustainable and the same requires to be interfered with.

4. Learned Special Government Pleader appearing for the respondents, though reiterated the submissions as given in the counter filed by the respondents, however, fairly conceded that the application, alleged to have been submitted by the petitioner, is not available in the records of the respondent. However, it is the submission of the learned Special Government Pleader that those records are destroyed after a period of three years and in that backdrop, the application filed by the petitioner might have been destroyed.

5. This Court heard the rival contentions of the learned counsel on either side and perused the materials available on record.

6. The facts in issue are not in dispute. Though it is the categorical stand of the petitioner that he has not submitted any application for transferring his employment exchange registration from Nagapattinam to Chennai, however, it is the case of the respondents that the employment exchange registration of the petitioner was transferred only based on the application of the petitioner, as is submitted through the counter filed by the respondents. Though such a stand is taken by the respondents, however, no material whatsoever has been placed before this Court to substantiate their side of the case. Once the respondents refute the case of the petitioner, it is



for the respondents to substantiate their case by placing relevant materials in support of their case. Though it is the submission of the respondents that after a period of three years, the application of the petitioner has been destroyed in pursuance to the relevant rules, however, this Court is at a loss to understand as to how the said document, which is crucial to the case could be destroyed by the respondents as it is the pivotal document for transferring the registration of the petitioner, whereby the petitioner will lose his seniority in the employment exchange. In the absence of any justifiable reason placed by the respondents, this Court is not inclined to accept the stand of the respondents that it is only on the basis of the application filed by the petitioner that his registration was transferred from the employment exchange at Nagapattinam to the employment exchange at Adyar, Chennai. The said act of the respondents definitely warrants interference at the hands of this Court.

7. For the reasons aforesaid, this writ petition is allowed and the respondents are directed to retransfer the registration of the petitioner back to the employment exchange, Nagapattinam, from the employment exchange at Adyar, Chennai, and restore the original seniority of the petitioner at the employment exchange, Nagapattinam within a period of four weeks from the date of receipt of a copy of this order and forward his name for future vacancies. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The District Employment Officer,
District Employment Office,
Nagapattinam 611 001.
2. The District Employment Officer,
District Employment Exchange for the Unskilled
Teacher's Colony, Adyar, Chennai 600 020.

+1cc to the Government Pleader, Sr.No.27403

W.P. NO.13376 OF 2013

ss (co)

rr ii (16/09/2020)