

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 03.01.2020
CORAM
THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR
W.P.No. 22144 of 2013

K.P. Palanivel

..Petitioner

Vs

1.Government of Tamil Nadu
Represented by its Secretary,
Municipal Administration and Water Supply,
Supply Department,
Fort St.George, Chennai-9.

2. The Director of Town Panchayats,
Kuralagam, Chennai-108.

3.The Executive Officer,
Vennanthur Town Panchayat,
Namakkal District.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, directing the respondents to regularise the services of the petitioner as tractor driver in the 3rd respondent's Panchayat on and from September 2006 with consequential benefits.

For Petitioner : M/s.V. Raghavachari
For Respondents : Mr.J.Ramesh,AGP -R1 & R2
M/s. K.Bhuvaneswari, AGP - R3

सत्यमेव जयते
O R D E R

The prayer sought for in the Writ Petition is to direct the respondents to regularise the services of the petitioner as tractor driver in the 3rd respondent's Panchayat on and from September 2006 with consequential benefits.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleaders appearing for the respondents and perused the documents available on record.

3. The learned counsel for the petitioner has submitted that the petitioner was appointed as driver in the respondent corporation and he worked more than seven years, but till date his service was not regularised by the respondent. The service of similarly placed persons was regularised by the respondent after completion of three years. Therefore, the writ petitioner is also entitled for regularisation of service on par with the similarly placed persons and as per G.O.Ms.No. 199, dated 12.08.1997.

4. On the other hand, the learned Additional Government Pleader has submitted that the petitioner was appointed as Tractor Operator in the office of the Town Panchayat in Vennanthur and his appointment is purely on contractual basis. As per G.O.Ms. No. 199 dated 12.08.1997, the powers are empower to director of the Town Panchayat to appoint scavenger on daily wages in view of financial position and there is no mention about the Tractor operator in the said G.O. The Tractor Operator can be appointed through open tender every year therefore the G.O.199, dated 12.08.1997 relying upon the petitioner is not applicable to the case of the petitioner.

5. The learned Additional Government Pleader further submitted that the petitioner did not come forward to work for seven days and did not attend the office on Wednesday, Sunday and National holidays and he has not worked continuously for 480 days. The petitioner's wages was paid on contract basis by the Municipality and the wages have been renewed periodically by way of resolutions. Therefore, the petitioner is not entitled to seek relief as per G.O.199, dated 12.08.1997.

6. The learned Additional Government Pleader in support of his submission, has relied upon the judgment of the Division Bench of this Court made in W.A.No. 637 of 2018 dated 27.03.2018. The relevant portion of the said judgment is extracted hereunder;

"3. Though notice was issued and the respondent is represented by a counsel, so far, no counter is filed. The order passed by the learned Single Judge is to the effect that since already a proposal has been forwarded by the fourth respondent therein, one post of Driver for one vehicle has to be created so as to regularize the services of the writ petitioner. So far

as the direction is concerned, it appears that it is totally uncalled for because of the fact that nature of appointment has not been examined and it is only contractual in nature. Moreover, a mandamus cannot be issued in case of appointment and to regularization of services. However, the authorities may consider, if they find that it so warrants and do the needful in accordance with law. The order passed by the learned Single Judge is modified with the above observation and the writ appeal is disposed of. No costs. The connected miscellaneous petition is closed ”.

7. In view of the decision of the Division Bench of this Court cited supra and considering the fact that the writ petitioner was appointed on contract basis and there is no mention in G.O. 199, dated 12.08.1997 with regard to regularisation of services for the post of Tractor Operator, the prayer sought for by the petitioner for regularization of service cannot be granted.

In the result, the writ petition stands dismissed as devoid of merits. No costs. Consequently, the connected Miscellaneous Petitions, if any are closed.

Sd/-
Assistant Registrar
//True Copy//
Sub Assistant Registrar

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To

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Represented by its Secretary,
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Supply Department,
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2. The Director of Town Panchayats,
Kuralagam, Chennai-108.

3/6

3.The Executive Officer,
Vennanthur Town Panchayat,
Namakkal District.

+1cc to M/s.V. Raghavachari, Advocate sr.484
+1cc to Government Pleader SR.NO. 995

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